

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT

OF PENNSYLVANIA

* * * * *

CLAUDETTE deLEON, *

Plaintiff * Case No.

vs. * 05-126E

CRAWFORD CENTRAL SCHOOL *

DISTRICT, *

CRAWFORD CENTRAL SCHOOL *

BOARD, *

Defendants *

MICHAEL E. DOLECKI, *

SUPERINTENDENT *

Defendant *

CHARLES E. HELLER, III *

ASSISTANT SUPERINTENDENT, *

Defendant *

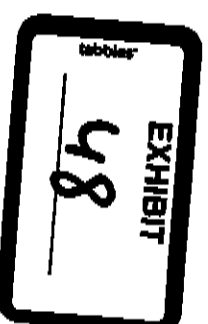
* * * * *

DEPOSITION OF

CHARLES E. HELLER, III

April 24, 2006

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COPY

1	DEPOSITION	Page 2	1	I N D E X	Page 4
2	OF		2		
3	CHARLES E. HELLER, III, taken on		3	WITNESS: CHARLES E. HELLER, III	
4	behalf of the Defendants herein,		4	EXAMINATION	
5	pursuant to the Rules of Civil		5	by Attorney Binder-Brach	7 - 103
6	Procedure, taken before me, the		6	EXAMINATION	
7	undersigned, Jacqueline L. Hallett, a		7	by Attorney Nichols	103 - 198
8	Court Reporter and Notary Public in		8	CERTIFICATE	199
9	and for the Commonwealth of		9		
10	Pennsylvania, at the Days Inn, 18350		10		
11	Conestoga Lake Road, Havertown,		11		
12	Pennsylvania, on Monday, April 24,		12		
13	2006, beginning at 1:06 p.m.		13		
14			14		
15			15		
16			16		
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25			25		
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2			2		
3	CHARLES NICHOLS, ESQUIRE		3	PAGE	
4	P.O. Box 1585		4	NUMBER DESCRIPTION IDENTIFIED	
5	Exile, PA 16507		5	1 Philosophy/Rationalist	24
6	COUNSEL FOR PLAINTIFF		6	2 Policy 412	26
7			7	3 Satisfactory rating	
8	ROBERTA BINDER-BRACH, ESQUIRES		8	and corrective action	
9	Andrews & Beard		9	plan for 2000-2001	30
10	3366 Lynwood Drive		10	4 Unsatisfactory	
11	P.O. Box 1311		11	rating 2001-2002	35
12	Altosoa, PA 16603		12	5 3/12/02 Letter from	
13	COUNSEL FOR DEFENDANTS		13	Dr. Mercatoris	47
14			14	6 3/18/02 Letter from	
15			15	Dolecki Re: IME	50
16			16	7 5/20/02 Letter from	
17			17	Dolecki Re: RTW	53
18			18	8 (a) Corrective Action	
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PAGE		2 -----	
4 NUMBER DESCRIPTION IDENTIFIED		3 CHARLES E. HELLER, III, HAVING FIRST	
5 10 11/20/02 3 day		4 BEEN DULY SWORN, TESTIFIED AS	
6 suspension 65		5 FOLLOWS.	
7 11 1/9/03 Heller		6 -----	
8 classroom observation 69		7 EXAMINATION	
9 12 1/14/03 Heller Memo 72		8 BY ATTORNEY BINDER-HEATH:	
10 Re: improvements 72		9 Good afternoon, Mr. Heller,	
11 13 1/13/03 deLeon Memo		10 we're here today to take your	
12 to Heller (not		11 deposition. Even though you are a	
13 received by Heller) 73		12 named Defendant, the School District	
14 14 3/6/03 Suspension		13 is calling you. And as you know, I	
15 with pay letter 79		14 am Robin Binder-Heath and I represent	
16 15 3/18/03 5 day		15 you, Mr. Dolecki and the School	
17 suspension without pay 84		16 District in an action brought in	
18 16 4/11/03 Unsatisfactory		17 Federal Court by Ms. deLeon, claiming	
19 Evaluation 93		18 that she was discriminated against in	
20 17 4/30/03 Statement		19 violation of both Title Seven, The	
21 of changes letter 96		20 Americans with Disabilities Act, and	
22 18 2/11/03 deLeon		21 the Pennsylvania Human Relations Act	
23 response letter 197		22 on the basis of her gender, her	
24		23 nationality --- or her national	
25		24 origin I should say, and her	
		25 perceived mental disability.	
OBJECTION PAGE	Page 7	1 And I am here to get your take	Page 9
3 ATTORNEY PAGE		2 on the issues that have been	
4 Binder-Heath 107, 109, 115, 121,		3 addressed in this case. And just as	
5 124, 128, 135, 140,		4 a matter of course, I know you've	
6 142, 143, 144, 145		5 been deposed before, but I just	
7 148, 159, 173, 179		6 wanted to run through some	
8 180, 186, 188, 190		7 preliminaries with you. As you know,	
9		8 we are under oath so it's important	
10		9 that everything you say today is the	
11		10 truth, and that if you don't recall,	
12		11 certainly a truthful answer may be, I	
13		12 do not recall.	
14		13 If at any time you need to	
15		14 take a break for any reason or to	
16		15 talk to me, please let the court	
17		16 reporter know and you can certainly	
18		17 do that. If you don't understand a	
19		18 question that I ask you, let me know	
20		19 and I'll be happy to repeat or	
21		20 rephrase the question for you.	
22		21 Because there is a record that is	
23		22 being made here, it is important that	
24		23 one person speak at a time. So I	
25		24 would ask that you wait until I	
		25 finish my question before you answer	

<p>1 my question. Similarly, Mr. Nichols, 2 when I am finished today will have an 3 opportunity to follow up and ask you 4 some questions, and I would wait that 5 you finish his --- let Mr. Nichols 6 finish his question before you 7 answer. 8 Also, taking that momentary 9 pause gives other Counsel an 10 opportunity to object. Any objection 11 would be placed on the record. 12 Although the objections that would be 13 placed on the record today are more 14 of an informal nature as to form, it 15 is important that if Counsel objects 16 -- if during my questioning Mr. 17 Nichols objects, that you stop 18 speaking so that the court reporter 19 can take down everything clearly. 20 And similarly when Mr. Nichols is 21 asking you questions, I may want to 22 object and I would also ask, if you 23 hear me say, objection, that you stop 24 speaking. 25 Also, because we have a</p>	<p>Page 10</p> <p>1 A That'd be tough. I'd say it 2 was pre-1990. 3 Q Go ahead. 4 A And then I earned my 5 elementary administrative certificate 6 from Youngstown State University, my 7 superintendent's certificate letter 8 of eligibility from Youngstown State 9 University, in that order, and then I 10 completed all my coursework for my 11 Doctorate at the University of 12 Pittsburgh. I have not completed my 13 doctorate because the dissertation is 14 still --- it may remain in the wings 15 for a long time. 16 Q But your coursework for your 17 doctorate is complete? 18 A It's complete, and the comps. 19 Q And that would be a Doctorate 20 in ---? 21 A Education. Administrative 22 leadership, University of Pittsburgh. 23 Q And relative to your 24 employment history in the educational 25 field, would you please state, for</p> <p>Page 12</p>
<p>1 written record today, it's important 2 that you answer verbally, and not 3 with a nod of the head or a gesture, 4 such as a shrug of the shoulders or 5 something, or an uh-huh or an uh-uh 6 because that's very hard to determine 7 what you're trying to say. So are we 8 ready to go? 9 A Yes, we are. 10 Q Would you please provide a 11 synopsis of your educational 12 background for the record? 13 A From college on? 14 Q Yes, please. 15 A I was a graduate of Clarion 16 University of Pennsylvania, 17 undergraduate. I graduated from 18 there was a degree in social studies, 19 secondary teaching certificate. I 20 went on to receive my Master's degree 21 in Education from Gannon University. 22 From there, I earned my secondary 23 administrative certificate from 24 Youngstown State University. 25 Q What year was that?</p> <p>Page 11</p>	<p>1 the record, each position you've 2 held. And I understand that when you 3 graduated from college you had a 4 teaching certification for secondary 5 at that time. Did you begin teaching 6 at that time? 7 A Not immediately. I was 8 employed at Bucknell University for 9 two years as an assistant wrestling 10 coach at the college level. And from 11 there I went back to Clarion 12 University for a year in the same 13 capacity. And then I spent a year at 14 Ellwood City School District, long- 15 term sub position. And then I was at 16 Titusville Area School District where I 17 was a teacher in the Social Studies 18 department, and I taught seventh 19 grade, primarily, but I had also 20 instructed the tenth grade American 21 History as well. And I --- 22 Q How long were you there? 23 A I was in a teaching position 24 for five years, and then I became 25 assistant principal at Titusville</p> <p>Page 13</p>

Page 14	Page 16
<p>1 Junior Hi. And then I was 2 assistant principal with Tinsville 3 Senior Hi. And then --- 4 Q Can you give me the years? 5 A I can't give you the years, 6 but I can tell you how many years. 7 It was four years as an assistant 8 principal at the junior high, one 9 year as an assistant principal at the 10 senior high school. Then I moved to 11 principal at the Junior High School, 12 Tinsville Junior High School for two 13 years. The high school principal 14 for, excuse me, for three years. And 15 then I've been employed at Crawford 16 Central School District since 17 February --- to be exact February 18 1 8th of 2002 as the assistant 19 superintendent. 20 Q When you were acting as a 21 principal and an assistant principal, 22 did you have any duties concerning 23 evaluating teachers' performance? 24 A Yes. 25 Q This is at Tinsville.</p>	<p>1 Q And you were at the Tinsville 2 Area School District in an 3 administrative capacity for how many 4 years? 5 A I believe I was --- 6 Q At least seven --- or ten I 7 should say. 8 A Yes. 9 Q And during those ten years, 10 you had the opportunity to observe 11 and evaluate teachers? 12 A Yes. 13 Q As an assistant superintendent 14 with the Crawford Central School 15 District, could you please describe 16 your duties? 17 A All of my duties or just 18 duties pertaining to personnel? 19 Q Well, if you could just 20 generally describe your duties and 21 then your --- specifically your 22 duties concerning personnel. 23 A Well, my official title is the 24 assistant superintendent, but I not 25 only assist the superintendent, but I</p>
Page 15	Page 17
<p>1 A Yes. 2 Q And what were those duties? 3 A Observations, informal and 4 formal observations and then we used 5 --- at the time of the evaluations we 6 used the state evaluation form, PE 7 form. And we used that the final 8 year evaluation for our teachers. 9 Q And is that the same form that 10 is used at the Crawford Central 11 School District that has been amended 12 since that time, I should say. Is it 13 a state form, or do you have your 14 own? 15 A No. It's a district created 16 form, a district developed form that 17 was approved by the state many years 18 ago when that opportunity was given 19 to each individual school district. 20 Q And in evaluating teachers, 21 was that something that you did on a 22 regular basis when you were acting as 23 a principal and assistant principal 24 at Tinsville? 25 A Yes.</p>	<p>1 also assist people in the area of 2 special ed curriculum, building and 3 grounds. And kind of like whatever 4 needs done, I'm usually involved in 5 it with the Central office staff and 6 also with the building principals. 7 My primary responsibility is 8 personnel and I'd like to say that I 9 perform more as a facilitator. 10 Meaning that I include many people in 11 the decision-making process for 12 personnel-related duties and 13 responsibilities, such as selecting 14 and recommending staff to the board 15 for approval to hire. I get involved 16 in situations with other supervisors 17 when there may be a problem 18 regardless of whether it's 19 professional staff or whether it's 20 --- what we refer to as a support 21 staff position. 22 Q Do you act as a mediator, 23 essentially, in those types of 24 situations? 25 A I can. I act as a mediator.</p>

Page 18	Page 20
<p>1 Sometimes I act as a problem solver.</p> <p>2 I'm another set of eyes and ears to</p> <p>3 help make recommendations for</p> <p>4 improvement.</p> <p>5 Q And if I may, you indicated</p> <p>6 that you were quite involved with the</p> <p>7 hiring process?</p> <p>8 A Yes.</p> <p>9 Q And has that been true since</p> <p>10 February 2002?</p> <p>11 A Yes.</p> <p>12 Q And I'm going to ask you a</p> <p>13 little bit more about this later on</p> <p>14 in your deposition, but since you've</p> <p>15 been hired, do you have any data as</p> <p>16 to how many minorities have been</p> <p>17 hired at Crawford Central School</p> <p>18 District?</p> <p>19 A Since I've been in the</p> <p>20 position as assistant superintendent,</p> <p>21 we have officially hired, I believe,</p> <p>22 four minorities.</p> <p>23 Q And is that a program that you</p> <p>24 --- is there any type of program or</p> <p>25 policy or procedure that the District</p>	<p>1 least listen to employee or</p> <p>2 supervisor disputes with the staff?</p> <p>3 A Uh-huh (yes).</p> <p>4 Q What else do you do concerning</p> <p>5 personnel?</p> <p>6 A I do observations of all the</p> <p>7 teachers that are not tenured.</p> <p>8 Meaning that people who are in</p> <p>9 teaching positions that have taught</p> <p>10 here for three years, I observe them</p> <p>11 once a year for three years. And I</p> <p>12 also make observations with the</p> <p>13 professional staff when they may be</p> <p>14 on a Action Plan or a program of</p> <p>15 improvement, as needed. As you said,</p> <p>16 I sit in on meetings where there</p> <p>17 could possibly be or there is</p> <p>18 potential problem within that</p> <p>19 building. And sometimes act as a</p> <p>20 mediator, maybe a consultant.</p> <p>21 Q During the 2001 and 2002</p> <p>22 school year, did you have the</p> <p>23 opportunity to observe Ms. DeLeon?</p> <p>24 A Not during the 2001-2002</p> <p>25 school year I didn't.</p>
Page 19	Page 21
<p>1 engages in in any kind of proactive</p> <p>2 way to attract minority teachers to</p> <p>3 the district?</p> <p>4 A We make every attempt possible</p> <p>5 to attract minorities to the School</p> <p>6 District, but because of the</p> <p>7 geographic location sometimes it's</p> <p>8 difficult. We do attend job fairs,</p> <p>9 which I'm going to be attending a</p> <p>10 couple in the very near future.</p> <p>11 Q Do you also work with the</p> <p>12 local universities and colleges to</p> <p>13 post your position openings?</p> <p>14 A We have them posted --- we</p> <p>15 advertise and we also post them on</p> <p>16 our website, which many people have</p> <p>17 access to.</p> <p>18 Q Now, getting back to your</p> <p>19 duties again, you said that your</p> <p>20 primary duty involved personnel. And</p> <p>21 you said, essentially, you act as a</p> <p>22 facilitator in most cases?</p> <p>23 A For the selection process,</p> <p>24 yes, I do.</p> <p>25 Q And you help mediate or at</p>	<p>1 Q And that --- you had just</p> <p>2 started in February of 2002?</p> <p>3 A Yes.</p> <p>4 Q Did you observe her on the</p> <p>5 2002-2003 school year?</p> <p>6 A Yes.</p> <p>7 Q And was that because she was</p> <p>8 on an action plan?</p> <p>9 A Yes.</p> <p>10 Q Since you started with the</p> <p>11 district in February 2002, has any</p> <p>12 other teacher other than Ms. DeLeon,</p> <p>13 been on an action plan or an</p> <p>14 improvement plan?</p> <p>15 A Yes.</p> <p>16 Q And did you observe those</p> <p>17 teachers as well?</p> <p>18 A Yes.</p> <p>19 Q Was there anything that you</p> <p>20 did to specifically single out or</p> <p>21 target Ms. DeLeon in any way</p> <p>22 concerning your observations of her</p> <p>23 in the 2002-2003 school year?</p> <p>24 A No.</p> <p>25 Q Relative to the evaluation</p>

Page 22	Page 24
<p>1 process of the District, can you just</p> <p>2 please describe it for the record?</p> <p>3 Is it a formal or informal process,</p> <p>4 or is it a combination of both? How</p> <p>5 would you characterize it?</p> <p>6 A. Could you say that one more</p> <p>7 time please?</p> <p>8 Q. The evaluation process, how</p> <p>9 would you describe the evaluation</p> <p>10 process of teachers at the District?</p> <p>11 A. Okay. I would describe the</p> <p>12 evaluation process of a teacher</p> <p>13 within the Crawford Central School</p> <p>14 District as a process that begins on</p> <p>15 the first day of school, and ends on</p> <p>16 the last day of school when most</p> <p>17 teachers usually sign their final</p> <p>18 evaluation of the year. And that</p> <p>19 would include classroom observations,</p> <p>20 that would include professional</p> <p>21 development. It could include</p> <p>22 attendance, tardiness or any</p> <p>23 timeliness issues. Parent/teacher</p> <p>24 conferences. Relationships with</p> <p>25 other professionals, relationships</p>	<p>1 Q. To have every student receive</p> <p>2 the best education possible?</p> <p>3 A. That's the goal.</p> <p>4 Q. I'm going to show you what has</p> <p>5 been marked as Heller Exhibit One and</p> <p>6 ask you to identify it for the</p> <p>7 record, please.</p> <p>8 (Heller Exhibit One</p> <p>9 marked for</p> <p>10 identification.)</p> <p>11 BY ATTORNEY BINDER-HEATH:</p> <p>12 Q. What is this document</p> <p>13 entitled?</p> <p>14 A. This is a professional</p> <p>15 evaluation philosophy and rationale</p> <p>16 of the Crawford Central Evaluation</p> <p>17 Instrument, which would be the</p> <p>18 appendix A.</p> <p>19 Q. Which is not attached.</p> <p>20 A. Appendix A is not attached, I</p> <p>21 don't believe.</p> <p>22 Q. But appendix A be would then</p> <p>23 be the actual instrument that's</p> <p>24 utilized and the ones that, for</p> <p>25 example, have been --- the same for</p>
Page 23	Page 25
<p>1 with student. Involvement in</p> <p>2 different types of activities within</p> <p>3 the school system and also within the</p> <p>4 community. I can probably name a lot</p> <p>5 more.</p> <p>6 Q. So it'd be fair to say it's</p> <p>7 kind of an all-encompassing</p> <p>8 evaluation process?</p> <p>9 A. Yes.</p> <p>10 Q. And what would you say is the</p> <p>11 ultimate goal of the Crawford Central</p> <p>12 School District relative to its</p> <p>13 performance of their professional</p> <p>14 staff? What is the goal?</p> <p>15 A. Our goal is that we want every</p> <p>16 member of the professional staff to</p> <p>17 be able to reach their full potential</p> <p>18 as a teacher within their assigned</p> <p>19 curricular area. And if that takes</p> <p>20 place then we feel that every student</p> <p>21 will receive every opportunity to</p> <p>22 receive the best education possible.</p> <p>23 Q. And ultimately isn't that the</p> <p>24 goal?</p> <p>25 A. Yes.</p>	<p>1 that was utilized for Ms. deLeon; is</p> <p>2 that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. And if you could just</p> <p>5 summarize for the record, what does</p> <p>6 this document mean? What does this</p> <p>7 embody, the philosophy and rationale</p> <p>8 of the Crawford Central Evaluation</p> <p>9 Instrument? What was the purpose of</p> <p>10 this document?</p> <p>11 A. This was a document that was</p> <p>12 agreed upon by the CCEA and the</p> <p>13 Crawford Central Board of School</p> <p>14 Directors.</p> <p>15 Q. CCEA would be the union?</p> <p>16 A. Yes, it would be the union.</p> <p>17 Long before I became a member of</p> <p>18 Crawford Central School District.</p> <p>19 Q. Are you familiar with this</p> <p>20 document?</p> <p>21 A. I have become familiar with</p> <p>22 this document since then. Even more</p> <p>23 so, I think, after the fact because</p> <p>24 it was something that became</p> <p>25 contractual and I was involved in a</p>

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<p>1 Committee to revise this philosophy 2 Statement two years ago, which we 3 still --- we still have the same type 4 of philosophy statement in place. 5 And in a nutshell, I would say that 6 this is kind of a guide on how to use 7 the evaluation, who can use the 8 evaluation, and then the purposes 9 behind it. And if there is a 10 disagreement between the evaluator 11 and the evaluatee, then there is a 12 procedure that you follow in order to 13 follow this philosophy statement. 14 Q And is it true that this 15 document was in place at the time of 16 --- since you've arrived at the 17 District in February of 2002 until 18 Ms. deLeon's termination at least, 19 until 2003 --- April 30th, 2003. 20 A Yes, that's correct. 21 Q I'll show you now what has 22 been marked as Heller Exhibit Two and 23 I ask you to take a look at it, 24 please. What is this document? 25 (Heller Exhibit Two</p>	<p>1 A Yes. Naturally, it states the 2 purpose, that there is a plan in 3 place for the professional staff to 4 be evaluated and the authority would 5 be the Board. And then it also 6 states the guideline, the objective 7 of the evaluation process and what 8 it's supposed to accomplish. And 9 then it talks about different types 10 of procedures for satisfactory and 11 unsatisfactory performances. 12 Q And let me just direct your 13 attention, if I could, to page two, 14 the last paragraph at the bottom. 15 A Yes. 16 Q This says it's provisions for 17 improving unsatisfactory performance 18 by offering a resource aid, 19 recommending how improvement can be 20 effected and scheduling follow-up 21 conferences to assess change. 22 BRIEF INTERRUPTION 23 ATTORNEY BINDER-HEATH: 24 Okay. Sorry about 25 that.</p>
Page 27	Page 29
<p>1 marked for 2 identification.) 3 A Evaluation of professional 4 employees. 5 BY ATTORNEY BINDER-HEATH: 6 Q Is this a policy? 7 A It's a policy. 8 Q Number 412, is that correct? 9 A Yes. 10 Q And is this a policy that was 11 adopted by the School Board, is that 12 correct? 13 A Yes. 14 Q And is this part, essentially, 15 all of your policies, are they kept 16 in a particular place? 17 A Yes. 18 Q Are your policies also 19 addressed in teacher manuals or 20 handbooks? 21 A A reference to the policy? 22 Q Correct. 23 A Yes. 24 Q Address. And could you just 25 summarize what this policy outlines?</p>	<p>1 A The answer to your question 2 would be that during my time at 3 Crawford Central School District that 4 paragraph has been followed for 5 anybody who is receiving an 6 unsatisfactory performance. 7 BY ATTORNEY BINDER-HEATH: 8 Q And unsatisfactory performance 9 doesn't necessarily mean an 10 unsatisfactory overall evaluation; 11 correct? Could it be unsatisfactory 12 in one particular category? 13 A Yes. At the end of the year, 14 are you saying? At the conclusion? 15 Q I'm saying at the conclusion 16 or, you know, other times. 17 A We have had people who have 18 been on an action plan that haven't 19 received an overall unsatisfactory 20 rating but have received an 21 unsatisfactory component within that 22 evaluation sheet. 23 Q That was my question. 24 A That's correct. 25 Q The form that you utilize, and</p>

Page 30	Page 32
<p>1 I understand that Exhibit A is not 2 attached, but the form that you 3 utilize at the Crawford Central 4 School District to evaluate 5 employees, can you just give us the 6 general overview of what that form 7 includes and actually, I can show 8 you. 9 A The one that we used to use? 10 Q During the when Ms. deLeon was 11 employed. 12 A Okay. Yes, I can give you an 13 overview. Appendix A, I have a copy 14 of one sitting right here so I can 15 --- 16 ATTORNEY BINDER-HEATH: 17 Which would be Heller 18 Three? 19 (Heller Exhibit Three 20 marked for 21 identification) 22 A Yes. 23 BY ATTORNEY BINDER-HEATH: 24 Q Okay. 25 A Appendix A is made up of 11</p> <p style="text-align: right;">Page 31</p>	<p>1 year, received an overall 2 satisfactory evaluation, but then 3 there were certain areas that were 4 marked unsatisfactory; is that 5 correct? Is that what you meant, 6 that a Corrective Action Plan can 7 address those areas even though the 8 overall rating may be satisfactory? 9 A That's correct. 10 Q And in this particular case 11 the attachment to Heller Exhibit 12 Three is a Corrective Action Plan for 13 Ms. deLeon; is that correct? 14 A That's correct. 15 Q And was this something that 16 you became familiar with in your 17 position as the assistant principal? 18 A Assistant superintendent. 19 Q I'm sorry, assistant 20 superintendent. 21 A Yes. 22 Q And what is your understanding 23 of the purpose of these Corrective 24 Action plans and how they have been 25 used in your professional experience?</p> <p style="text-align: right;">Page 33</p> <p>1 A Are you asking me specifically 2 how --- 3 Q Generally. Generally, how are 4 --- what is the purpose --- 5 A --- how Ms. deLeon, or just 6 the purpose behind it, an action 7 plan? 8 Q Purpose behind it. 9 A The purpose of an action plan 10 would be to focus on an observed 11 weakness and, as a team, put together 12 an action plan which would change 13 that weakness into a strength. 14 Q Now, in this particular case, 15 in looking at Heller Exhibit Three, 16 which is Ms. deLeon's evaluation for 17 the 2000-2001 school year, and then 18 the attached Corrective Action Plan, 19 I see that under preparation and 20 planning there is an unsatisfactory. 21 Under technique and teaching 22 effectiveness there is an 23 unsatisfactory. And under 24 teacher-student interactions there is 25 an unsatisfactory on the first page;</p>

<p>1 is that correct?</p> <p>2 A Correct.</p> <p>3 Q Now, the areas of concern that</p> <p>4 were --- were these particular areas</p> <p>5 for which she received an</p> <p>6 unsatisfactory in that particular</p> <p>7 component addressed in the attached</p> <p>8 Collective Action Plan --- Corrective</p> <p>9 Action Plan, which is also part of</p> <p>10 Heller Three?</p> <p>11 A Yes.</p> <p>12 Q And also contained in the</p> <p>13 Corrective Action Plan that's part of</p> <p>14 Heller Exhibit There, were there</p> <p>15 suggested measures of how to improve</p> <p>16 suggested strategies, suggested</p> <p>17 methods that were incorporated in</p> <p>18 this Corrective Action Plan?</p> <p>19 A Yes.</p> <p>20 Q When you came on board in</p> <p>21 February of 2002, or thereafter I</p> <p>22 should say, were you aware that Ms.</p> <p>23 deLeon received an unsatisfactory</p> <p>24 rating for the 2001-2002 school year?</p> <p>25 A Yes.</p>	<p>Page 34</p> <p>1 to the unsatisfactory grading.</p> <p>2 Q And do you recall anything</p> <p>3 specific about those meetings?</p> <p>4 A Just that the meetings were</p> <p>5 emotional, intense and ---</p> <p>6 Q Emotional on whose part?</p> <p>7 A Ms. deLeon. Very emotional on</p> <p>8 Ms. deLeon. And there was very</p> <p>9 little accomplished at those</p> <p>10 meetings.</p> <p>11 Q And this was in the spring of</p> <p>12 2002?</p> <p>13 A Yes.</p> <p>14 Q I remember you just started</p> <p>15 February of 2002, I understand that.</p> <p>16 A It would've been sometime in</p> <p>17 March, I believe.</p> <p>18 Q And then obviously pre-dating</p> <p>19 this unsatisfactory evaluation, which</p> <p>20 is March 18th of 2002; correct?</p> <p>21 A Yes.</p> <p>22 Q And was there more than one</p> <p>23 meeting? Were there a couple of</p> <p>24 meetings that you were involved in if</p> <p>25 you recall?</p>
<p>Page 35</p> <p>1 Q And I'm going to show you</p> <p>2 this.</p> <p>3 ATTORNEY BINDER-HEATH:</p> <p>4 We'll mark this as</p> <p>5 Heller Exhibit Four.</p> <p>6 (Heller Exhibit Four</p> <p>7 marked for</p> <p>8 identification.)</p> <p>9 BY ATTORNEY BINDER-HEATH:</p> <p>10 Q It's dated March 18th of 2002</p> <p>11 and I understand that this</p> <p>12 unsatisfactory rating by virtue of a</p> <p>13 grievance arbitration was later</p> <p>14 overturned, but were you involved in</p> <p>15 the process of providing Ms. deLeon</p> <p>16 with an unsatisfactory rating for the</p> <p>17 2001-2002 school year?</p> <p>18 A I'm going to have to say that</p> <p>19 I was involved partially.</p> <p>20 Q And how were you involved that</p> <p>21 you recall?</p> <p>22 A I became involved shortly</p> <p>23 after I became an employee of</p> <p>24 Crawford Central School District</p> <p>25 through I guess, some meetings prior</p>	<p>Page 37</p> <p>1 A Yes, I think there were two</p> <p>2 meetings if I recall.</p> <p>3 Q And did Ms. deLeon have union</p> <p>4 representation at that meeting, at</p> <p>5 those meetings?</p> <p>6 A Yes. She always has union</p> <p>7 representation.</p> <p>8 Q And I understand it's several</p> <p>9 years ago, but I just wanted to ask</p> <p>10 you what your --- other than being</p> <p>11 emotional, do you recall specifically</p> <p>12 areas of discussion or areas of</p> <p>13 concern or other administrators'</p> <p>14 involvement in these meetings of</p> <p>15 March of 2002?</p> <p>16 A Well, there were always ---</p> <p>17 when Ms. deLeon, when --- let's put</p> <p>18 it this way. When I was involved in</p> <p>19 a meeting with Ms. deLeon there were</p> <p>20 always representatives of the CCEA,</p> <p>21 Ms. deLeon herself and Mr. Higgins,</p> <p>22 who was the assistant principal, at</p> <p>23 MASH, Meadville Area Senior High</p> <p>24 School. Mr. George Deshner was the</p> <p>25 principal. He was at the meetings,</p>

1 and myself. And there may have been
2 some occasions later on where Mr.
3 Dolecki maybe had attended. I don't
4 recall that at this point.

5 Initially, he wasn't involved in the
6 meetings that I was a part of. And I
7 was not --- I was not familiar with
8 Ms. deLeon on a firsthand basis. The
9 first time that we had met,
10 and ---

11 Q Did anything in particular
12 stand out about the first time you
13 met?

14 A She became very emotional. In
15 my eyes she was unprofessional. I
16 never really experienced anything
17 like that. I was shocked.

18 Q In all the years at Titusville,
19 you never ---?

20 A In all the years at Titusville,
21 I never experienced anything like
22 that from a classroom teacher, or any
23 other professional employee.

24 Q In what way did you find it
25 shocking or unprofessional?

1 A Personally, I didn't feel that
2 she really was paying attention to
3 what the administrator --- building
4 administrator had to say to her. She
5 was ignoring him. I think that if I
6 remember correctly I had even made a
7 statement that, you do understand
8 what is being told you. Because it
9 was my observation that she was not
10 paying attention or really didn't
11 care to listen. And at that point
12 she had an explosive outburst and had
13 to be ushered from the room. I never
14 experienced anything like that.
15 Q And she was ushered from the
16 room by her own union people?
17 A By her own union people.
18 Q And on or about March --- and
19 I know that the dates may be vague
20 and that's fine, but on or about
21 March 12th, 2002, and this may be the
22 meeting that you were referencing ---
23 A Could be.
24 Q --- was there a meeting that
25 had

1 --- where Ms. deLeon had to leave the
2 room and it was not continued at that
3 time? Is that the same meeting?
4 A Yes.

5 Q On or about March 12th, 2002.
6 Do you recall, offhand, who was at
7 that meeting? And this is where she
8 had to be ushered from the room?
9 Now, I don't want you to confuse
10 years. I'm talking 2002, and just,
11 if this helps you, the next exhibit
12 is a letter that came from Ms.

13 deLeon's psychologist for three days
14 off of work. If that gives you any
15 time reference because I know it's
16 confusing because in March of 2003
17 contentious meetings occurred then
18 too, but I'm talking about 2002.

19 A I remember about four CCEA
20 reps. They weren't all in attendance
21 at that particular meeting. Doug

22 Mehek was at a meeting --- more than
23 one meeting. We have Pat Deardorff
24 who possibly was at that meeting, but
25 I'm not sure. Carl Roznowski, Joanne

1 Willision later on, Dan Hootman may
2 have attended a meeting or two. I'm
3 not positive about that, but ---

4 Q When you say that she had an
5 emotional outburst and had to be
6 ushered from the room, that meeting
7 then didn't continue that day?

8 A That meeting was over.

9 Q And what do you recall, if
10 anything specifically about that
11 outburst?

12 A Ms. deLeon began to --- she
13 got very emotional, crying. And was
14 saying some things as if she can't
15 take this anymore.

16 Q What was the --- do you
17 remember why she was even called in
18 at the time? Was that to do with a
19 classroom observation? I know that
20 on March 7th of 2002 there is a
21 report of a classroom observation ---

22 A That was it ---

23 Q --- that Mr. Higgins did.

24 A It had to do with Mr. Higgins'
25 observation and he was trying to make

<p>1 some recommendations and it really 2 wasn't going very well, and it wasn't 3 --- I didn't feel that she was 4 listening to what Mr. Higgins had to 5 say at that time. And I made a 6 simple statement asking her if she 7 did understand because maybe my 8 observation wasn't correct, and at 9 that point is when she lost her 10 composure, became emotional. I can't 11 say verbatim what she said, but she 12 started crying. She wasn't capable 13 of finishing the meeting. She was 14 saying that she can't take this any 15 more. The pressures, the kids' 16 behavior, those kind of things. 17 Q And did that cause you to be 18 concerned? You said, in all your 19 years you'd never experienced 20 anything like that. Did that kind of 21 demeanor and behavior cause you some 22 concern at that time? 23 A It caused me a lot of concern. 24 Q And what were your concerns at 25 the time?</p>	<p>Page 42</p> <p>1 deLeon becoming --- just losing it. 2 It wasn't really anything that should 3 have made that happen, in my opinion. 4 Q In other words, you didn't 5 believe that the atmosphere preceding 6 her outburst was contentious? 7 A Not at all. Nobody was 8 talking in a loud voice. I think she 9 was being talked to, not down to. I 10 believe that everybody was in a 11 professional state. My question that 12 kind of put her over the edge was --- 13 I was talking like I'm talking right 14 now. 15 Q In a calm, normal tone of 16 voice? 17 A Exactly. 18 Q And you simply said, do you 19 understand what's being said to you? 20 A Yes. 21 Q Do you recall --- and I know 22 that because you're a named Defendant 23 in this lawsuit you have seen the 24 amended complaint? 25 A Uh-huh (yes).</p> <p>Page 44</p>
<p>1 A Well, my first concern 2 would've been that there was --- that 3 the relationship between the teacher, 4 Ms. DeLeon, and the administration 5 was not very strong. It didn't look 6 like there was a very good working 7 relationship. And there were some 8 weaknesses, which I had observed 9 personally on her end of the year 10 evaluation and her Corrective Action 11 Plan that it would've been extremely 12 difficult to accomplish the goals 13 that were within that action plan. 14 That there was a poor working 15 relationship between the teacher and 16 the building administration. And 17 with this type of volatile fragile 18 behavior, there is not a teacher in a 19 public school building that doesn't 20 encounter a problem from time to time 21 and they have to be able to deal with 22 it rationally and be able to keep 23 their composure. And that was a 24 concern of mine, because what had 25 taken place up to the point of Ms.</p> <p>Page 43</p>	<p>1 Q And there is some allegations 2 that you basically told her, her 3 being Ms. deLeon, after this March 4 12th, 2002 meeting, that she should 5 resign and attribute it to her mental 6 state and essentially, if I may sum 7 it up, the allegation is that you 8 were trying to target her or harass 9 her because of her perceived mental 10 disability. Do you recall --- do you 11 recall reviewing allegations to that 12 effect? 13 A Yes, I do. 14 Q Did you have a conversation 15 after this meeting with Ms. deLeon 16 concerning her employment status? 17 A Yes. 18 Q What do you recall occurred at 19 that meeting? 20 A When I left the meeting, the 21 first meeting in which I had been 22 party to, I went back to the 23 instructional support center, which 24 is the central office administration 25 building and I talked with Mr.</p> <p>Page 45</p>

<p>1 Dolecki, the superintendent. And I 2 explained to him what I had just 3 observed. I was only in the District 4 for --- I'm just approximating at 5 this time, maybe three weeks. I had 6 never quite experienced anything like 7 this. I was shocked, appalled and I 8 couldn't believe it. And I explained 9 to him what had happened, what Ms. 10 deLeon had said, and so in 11 conversation with Mr. Dolecki he had 12 instructed me to make that offer to 13 Ms. deLeon. 14 And so at the next meeting I 15 went back, and the purpose behind 16 that was because in that meeting, the 17 first meeting, she said, I just can't 18 do this anymore, I can't take it. 19 Her job is to educate children, it 20 was our observation that she more or 21 less was stating that she can't do 22 what's expected of her professionally 23 and so the offer was put on the table 24 that, if you resign effective at the 25 conclusion of the year, then you will</p>	<p>Page 46</p> <p>1 four-day excuse from work? 2 A I'm aware of this letter. It 3 wasn't sent to me. I can't tell you 4 if it was before or after. I really 5 don't have any recollection of the 6 time frame. It says something in --- 7 I don't want to be speculating. 8 Q Did you --- do you know if 9 you, before the March 12th meeting, 10 when Ms. deLeon had to be ushered 11 from the room, were you aware that 12 she had been out before with any 13 mental health problems or that she 14 had suffered from them? 15 A No. Prior to that meeting I 16 had very little knowledge of Ms. 17 deLeon, if any really, I didn't know 18 her. I had only been at the district 19 --- we have 4200 students, we have 20 700 people on our payroll, and for 21 somebody to become familiar with 22 anybody specifically, it would've 23 been an impossible task. 24 Q So is it fair to say that at 25 that time of the meeting March 12th,</p>
<p>1 be paid through the end of the 2 2001/2002 school year. 3 Q Did you demand her resignation 4 at that time? 5 A No. Not at all. It was 6 offered. 7 Q And just if you can try to 8 reconstruct the chronology for me. 9 The next exhibit is a letter dated 10 March 12th, 2002, which was the date, 11 essentially, of the meeting that you 12 had that you said that she had to be 13 ushered out of the room. 14 (Heller Exhibit Five 15 marked for 16 identification.) 17 BY ATTORNEY BINDER-HEATH: 18 So my question to you, did you know 19 that the letter was received at the 20 central office on that date? When 21 did you know, if you knew about it 22 and I guess I should --- my question, 23 did you know at or about the time 24 this letter was drafted that it had 25 come in concerning a three-day or</p>	<p>Page 47</p> <p>1 2002, you didn't know that she had 2 taken a sabbatical for mental health 3 reasons? 4 A I knew nothing about her. 5 Prior to that meeting, I hadn't 6 looked at any of these, hadn't seen 7 any of these documents pre March 8 12th, 2002 meeting 9 Q Other than her Corrective 10 Action Plan? 11 A That's it. 12 Q Now, just so I can get the 13 time frame right, the outburst 14 occurred, the meeting ended, you 15 spoke with Mr. Dolecki and then 16 thereafter you had a conversation 17 with Ms. deLeon? 18 A Yes. 19 Q So and essentially, just for 20 purposes of trying to keep the record 21 straight, from looking at the letter 22 from her psychologist, I will tell 23 you that she did take that time off, 24 so it would've been after the 17th of 25 March. And then I'll show you then</p>
<p>Page 46 - Page 49</p>	<p>Page 48</p>

<p>Page 50</p> <p>1 what's --- a letter that's dated 2 March 18th, 2002 from Mr. Dolecki to 3 Ms. deLeon, which is dated --- as I 4 said, dated March 18th, 2002. 5 (Heller Exhibit Six 6 marked for 7 identification.) 8 BY ATTORNEY BINDER-HEATH: 9 Q Do you know if, on or about 10 this date you had a meeting with Ms. 11 deLeon, at which time you made the 12 offer about the resignation? 13 A Yes. 14 Q And other than what you've 15 already discussed, is there anything 16 else you recall specifically? 17 A No, I don't recall anything 18 else. 19 Q Who was at the meeting --- or 20 who was at the --- attended the 21 conversation when you said, you know, 22 if you can't basically do this 23 anymore, do you want to resign? 24 A Mr. Destner, building 25 principal, Mr. Higgins the assistant</p>	<p>Page 52</p> <p>1 prior actions she had taken; is that 2 fair? 3 A That's fair. 4 Q Okay. Relative to the letter 5 of March 18th, 2002 that's marked as 6 Heller Six, were you aware that this 7 letter was sent or going to be sent? 8 A Yes. 9 Q And did you have any 10 involvement, essentially, with the 11 determination about the independent 12 medical examination, psychiatric 13 evaluation? Was that something that 14 you were involved with in the 15 decision-making process? 16 A I was part of the discussion. 17 Q Do you recall meeting 18 specifically about the discussion? 19 A Just that the decision was 20 made to do exactly what this letter 21 says. 22 Q And to you --- is it your 23 understanding that the Plaintiff did 24 undergo an independent medical 25 evaluation and was released to return</p>
<p>Page 51</p> <p>1 principal. I believe Mrs. Deardorff, 2 who at the time, was the president of 3 CCEA was there. There could've been 4 --- I know that there was another 5 person there, but I'm not exactly 6 sure. It could've been Mr. 7 Roznowski, Ms. Willision, Mr. Melok. 8 Q So you think it was another 9 union rep? 10 A I believe there was another 11 union rep there, yes. 12 Q And when you made the offer of 13 the resignation, was that something 14 that you were doing to harass Ms. 15 deLeon? 16 A Not at all? 17 Q Was it something you were 18 doing to intimidate her? 19 A No, no, no, no. 20 Q At this point, were you even 21 aware that she had filed grievances 22 in the past with the District? 23 A No. 24 Q And was it fair to say you 25 were not retaliating against her for</p>	<p>Page 53</p> <p>1 to work by Dr. McFadden on May 17th, 2 2002? 3 A Yes, I was aware of that. 4 Q And let me show you what's 5 been marked as Heller Exhibit Two 6 (sic), it's a May 20th, 2002 letter 7 from Dr. Dolecki to Ms. deLeon 8 indicating that she is released to 9 return to work. And to return to 10 work, and you are copied on that 11 letter? 12 (Heller Exhibit Seven 13 marked for 14 identification.) 15 A Yes. 16 BY ATTORNEY BINDER-HEATH: 17 Q And so you were made aware 18 that she was going to be returning to 19 work; is that correct? 20 A Yes. 21 Q After Ms. deLeon's return to 22 work, did you embark on a campaign to 23 retaliate against the Plaintiff in 24 any way? 25 A Not at all.</p>

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<p>1 Q Did you discriminate against 2 the Plaintiff in any way? 3 A No. 4 Q Did you attempt to harass the 5 Plaintiff in any way based on either 6 her gender, her perceived mental 7 condition or her national origin? 8 A No. 9 Q Did you believe prior to her 10 termination in April of 2003 that she 11 was a satisfactory teacher? 12 A Could you repeat that? 13 Q When she returned through the 14 end of the 2002 school year. 15 A Uh-huh (ss). 16 Q And then you indicated that 17 you had observed her for the 18 2002-2003 school year? 19 A Yes. 20 Q She was terminated in April of 21 2003? 22 A Yes. 23 Q For the 2002-2003 school year 24 over the time that she was there, do 25 you believe that she was a</p>	<p>1 A No, they weren't. 2 Q And I'll show you now what's 3 been marked as Heller Exhibits A and 4 B. 5 (Heller Exhibit Eight, 6 A and B marked for 7 identification) 8 BY ATTORNEY BINDER-HEATH: 9 Q And the first is a action plan 10 for the 2002-2003 school year. That 11 would be Eight A and Eight B then is 12 a revised action plan. It says, 13 revised February 2002 for the 14 2002-2003 school year. Did you have 15 any input in preparing these 16 documents? 17 A Very little. 18 Q Were you aware that they 19 existed? 20 A I was aware that they existed. 21 I read through them. 22 Q At the time? 23 A At the time, yes. 24 Q And you were aware that --- 25 A Before the ---</p>
Page 55	Page 57
<p>1 satisfactory teacher? 2 A No, I didn't believe that she 3 was satisfactory teacher. 4 Q Did you believe that she was 5 terminated for just cause? 6 A Yes, I do. 7 Q And do you as you sit here 8 today recall any specific concerns 9 that you may have had about her 10 teaching performance? 11 A Without --- 12 Q Did she have a Corrective 13 Action Plan for the 2002-2003 school 14 year? 15 A Yes, she did. 16 Q And during that year did the 17 District, in your opinion, attempt to 18 work with Ms. deLeon to improve her 19 performance? 20 A I believe that the School 21 District made every attempt possible 22 to work with Ms. deLeon to try to 23 improve her performance. 24 Q And was that --- were those 25 attempts successful?</p>	<p>1 Q I'm sorry. 2 A When they were in draft form I 3 had a little bit of input, but as far 4 as constructing these, they were 5 constructed by the building 6 principals, particularly Mr. Higgins. 7 And I gave a little input, but I'm 8 going to have to give the 9 responsibility mainly to Mr. Higgins, 10 the assistant principal for putting 11 this together. 12 Q And, essentially, my question 13 is during the 2002-2003 school year, 14 you were however, aware that these 15 documents did exist? 16 A Yep. 17 Q And that they were to be 18 implemented and followed up on; 19 correct? 20 A Correct. 21 Q Now, you indicated to me that 22 you did have an opportunity to 23 observe Ms. deLeon during the 24 2002-2003 school year. Were those 25 formal classroom observations, or</p>

<p>Page 58</p> <p>1 informal observations or both?</p> <p>2 A I'd say it was formal</p> <p>3 observation.</p> <p>4 Q And do you --- did you ever</p> <p>5 observe her informally? Simply just</p> <p>6 by virtue of seeing her interact</p> <p>7 either in the classroom or in the</p> <p>8 hallway or anywhere else?</p> <p>9 A My only interactions with Ms.</p> <p>10 deLeon would be in meetings and in</p> <p>11 her classroom when I had made</p> <p>12 arrangements to observe her, but</p> <p>13 otherwise, I had no interactions with</p> <p>14 Ms. deLeon.</p> <p>15 Q And there was a formal</p> <p>16 classroom observation that you had</p> <p>17 done for the 2002-2003 school year,</p> <p>18 which was, essentially, an overall</p> <p>19 positive observation, although you</p> <p>20 did have some suggestions. Do you</p> <p>21 recall having a meeting with her to</p> <p>22 discuss that observation where Ms.</p> <p>23 Willison and Mr. Roznowski were also</p> <p>24 present?</p> <p>25 A Yes.</p>	<p>Page 59</p> <p>1 be encouraging. I thought that she</p> <p>2 did things that I was talking about</p> <p>3 well, and I was just reinforcing it</p> <p>4 positively with words of</p> <p>5 encouragement, which I felt would</p> <p>6 help to inspire, motivate. Help to</p> <p>7 strengthen the relations, possibly,</p> <p>8 between Ms. deLeon and the</p> <p>9 administration, and if anything it</p> <p>10 just created more of a gap, my</p> <p>11 opinion. So it didn't really matter</p> <p>12 what I had to say to Ms. deLeon, that</p> <p>13 was the impression I got.</p> <p>14 Q And how would you describe her</p> <p>15 demeanor when she was talking to you</p> <p>16 at the meeting?</p> <p>17 A I would say that since I am</p> <p>18 --- I'm not her direct supervisor,</p> <p>19 but I'm central office administrator</p> <p>20 and I do have supervisory powers over</p> <p>21 her, I think was a bit disrespectful</p> <p>22 to a certain --- you know. And her</p> <p>23 behaviors in any of the meetings that</p> <p>24 I've been in she doesn't conduct</p> <p>25 herself as a professional, for the</p>
<p>Page 59</p> <p>1 Q And what do you recall about</p> <p>2 that meeting?</p> <p>3 A What I recall specifically is</p> <p>4 that my first observation with Ms.</p> <p>5 deLeon was satisfactory, and I had</p> <p>6 made some --- a few recommendations,</p> <p>7 I believe without looking at it. Is</p> <p>8 there a copy in there?</p> <p>9 Q There is not a copy --- I was</p> <p>10 just looking here and no, there's</p> <p>11 not.</p> <p>12 A I had made some --- I believe</p> <p>13 some positive comments about her</p> <p>14 performance in the classroom and I</p> <p>15 remember that she wanted to argue and</p> <p>16 debate when I was complimenting her,</p> <p>17 which I couldn't believe. I was</p> <p>18 trying to use positive reinforcement</p> <p>19 and she didn't want to hear it ---</p> <p>20 what I had to say.</p> <p>21 Q Even though you were trying to</p> <p>22 be ---?</p> <p>23 A I was trying to be nice.</p> <p>24 Q And encouraging?</p> <p>25 A That's right. I was trying to</p>	<p>Page 61</p> <p>1 most part. Insubordinate.</p> <p>2 Q We had already looked at, as</p> <p>3 Exhibits A and B, the improvement</p> <p>4 plan and the revised improvement plan</p> <p>5 for the 2002-2003 school year. And</p> <p>6 I'm just going to show you now a</p> <p>7 letter on which you were copied</p> <p>8 that's dated August 30th, 2002 from</p> <p>9 Mr. Higgins the assistant principal,</p> <p>10 which should be viewed in conjunction</p> <p>11 with the improvement plans, and ask</p> <p>12 you to take a look at that.</p> <p>13 (Heller Exhibit Nine</p> <p>14 marked for</p> <p>15 identification.)</p> <p>16 BY ATTORNEY BINDER-HEATH:</p> <p>17 Q Were you aware that part of</p> <p>18 Ms. deLeon's improvement plans would</p> <p>19 be to review --- I'm sorry, to</p> <p>20 observe other teachers' classrooms?</p> <p>21 A Yes.</p> <p>22 Q And this letter was</p> <p>23 essentially designed to facilitate</p> <p>24 her ability to do that, correct?</p> <p>25 A Uh-huh (yes).</p>

1 Q With a schedule?

2 A Yes.

3 Q And the other is another

4 requirement here concerning keeping a

5 log. Do you have any knowledge about

6 what this log was supposed to be used

7 for?

8 A Yes, it was for discussion

9 purposes. It was for, you know,

10 create a dialogue that people learn.

11 It was to --- documentation, tracking

12 device that he had made every

13 attempt to follow through with that

14 directive.

15 Q And were these tools something

16 that were designed to harass or

17 intimidate Ms. deLeon?

18 A These tools were designed to

19 only help her.

20 Q During the 2002-2003 school

21 year did you become aware of an

22 incident involving a mother by the

23 name of Robin Stockton and the

24 student confidentiality?

25 A Yes.

1 But we discourage them from calling

2 the parent and discussing the

3 student's behavior in front of the

4 rest of the class. In our opinion

5 that would be a breach of

6 confidentiality. It's not good for

7 the student's self-esteem. It could

8 set him up to be --- put in a

9 position to be bullied or teased and

10 harassed or anything else like that.

11 Q And isn't it also --- is it

12 your understanding that it would be a

13 violation of FERPA?

14 A That's my understanding.

15 Q And what is FERPA?

16 A FERPA is --- it's an acronym.

17 The protection of student files.

18 Q Federal Education Record

19 Protection Act?

20 A Thank you.

21 Q And that also has to do with

22 confidentiality; is that correct?

23 A That's correct.

24 Q Are you aware whether or not

25 the students at the Crawford Central

1 Q And what do you recall about

2 that?

3 A I remember that Ms. deLeon was

4 having a problem with Ms. Stockton's

5 son in her Spanish class and that she

6 --- the intervention that she chose

7 to utilize was to call Mrs. Stockton,

8 the mother ---

9 Q On the phone?

10 A On the phone. In the

11 classroom.

12 Q From where.

13 A In her classroom in front of

14 the entire class and talk to Mrs.

15 Stockton about her son's behaviors in

16 front of the entire class.

17 Q And is this something that the

18 School District finds unacceptable?

19 A We find it unacceptable not to

20 call the parent. We encourage them

21 to call, we encourage all of our

22 teachers, if they're having a

23 problem, or if they want to

24 compliment, to make sure you notify

25 parents through the use of telephone.

1 Schools receive any training

2 concerning student confidentiality,

3 FERPA and other concerns?

4 A Teachers?

5 Q Yes.

6 A They're fully aware that

7 student records and student

8 information is confidential.

9 Q Relative to the situation

10 involving Mrs. Stockton, did the

11 District take any disciplinary

12 action, do you know? And if it helps

13 you, I'll direct your attention to

14 Heller Exhibit Ten.

15 (Heller Exhibit Ten

16 marked for

17 identification.)

18 A I believe that it did.

19 BY ATTORNEY BINDER-HEATH:

20 Q And as I said, please, there

21 is a --- Exhibit Ten is a November

22 20th, 2002 letter from Mr. Dolecki to

23 Ms. deLeon and you are copied on the

24 letter. And certainly, if it'll

25 refresh your recollection take a

<p>Page 66</p> <p>1 moment and review the letter. 2 WITNESS COMPLIES 3 A Yes, I'm aware of this. 4 BY ATTORNEY BINDER-HEATH: 5 Q And do you recall a meeting 6 being held prior to determine --- the 7 District determining to take 8 disciplinary action? And 9 essentially, isn't it --- 10 A With Mrs. Stockton and Ms. 11 deLeon? 12 Q Yes. 13 A Yes, I was there. 14 Q And essentially, isn't it true 15 that in order for the --- a school 16 district to be in compliance with the 17 law as it pertains to a collective 18 bargaining agreement that prior to 19 taking any disciplinary action the 20 district is required to meet with the 21 employee to discuss it? 22 A Yes. Conduct some type of 23 investigation, hear their side of the 24 story. 25 Q Afford them due process?</p> <p>Page 67</p> <p>1 A Exactly. 2 Q And was that done in this 3 case? 4 A Yes. 5 Q What do you recall about the 6 meeting concerning this 7 confidentiality issue? 8 A With the parent present? 9 Q Yes. 10 A Mr. Higgins received a 11 complaint from the parent concerning 12 this incident. And so we felt that 13 the best way to handle it would be to 14 bring in the parent and have like a 15 parent/teacher conference monitored 16 by Mr. Higgins and I was there as 17 well. And the meeting --- I think 18 the potential to solve the problem 19 was there, but Ms. deLeon didn't have 20 anything --- she wasn't willing to do 21 that. She was real snide and 22 disrespectful to the parent. When 23 Ms. deLeon left the meeting, the 24 parent was extremely upset with Ms. 25 deLeon's demeanor.</p>	<p>Page 68</p> <p>1 Q And --- 2 A The meeting didn't go well. 3 Q And so nothing was 4 accomplished, essentially, from that 5 meeting? 6 A No. If anything, it just made 7 it worse. 8 Q And so what then did the 9 District do as the next step? 10 A And then there was a meeting 11 with --- 12 Q Was there then a subsequent 13 meeting --- 14 A Yes. 15 Q --- with Ms. deLeon and her 16 union representative? 17 A Yes, there was. 18 Q And what do you recall, if 19 anything about that? 20 A I don't remember specifically. 21 Q But would it be fair to say 22 that the issue of confidentiality was 23 discussed? 24 A Yes. 25 Q And in reviewing this letter</p> <p>Page 69</p> <p>1 of March --- in sorry, November 20th, 2 2002, at the time that it was 3 drafted, did you have an opportunity 4 to review the letter? And I note 5 that you are copied on the bottom? 6 A Oh, I've read it before. 7 Q And at the time were you in 8 agreement that three days without pay 9 was merited concerning the issue 10 involved? 11 A Yes. 12 Q Do you recall observing Ms. 13 deLeon on January 9th of 2003? And 14 I'll direct your attention to Heller 15 Exhibit 11. 16 (Heller Exhibit 11 17 marked for 18 identification.) 19 A I do. 20 BY ATTORNEY BINDER-HEATH: 21 Q And is this --- and looking at 22 the files, it appears that the second 23 and third pages of Heller Exhibit 24 Eleven go with your observation, is 25 that correct? Is this something you</p>
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Page 70	Page 72
<p>1 prepared?</p> <p>2 A Yes.</p> <p>3 Q And could you please, for the</p> <p>4 record, summarize the information</p> <p>5 contained in this observation?</p> <p>6 A Well, I felt that there were</p> <p>7 many strategies that were violated,</p> <p>8 and I think that, first of all, the</p> <p>9 classroom management --- the students</p> <p>10 were not familiar with what the</p> <p>11 expectations of classroom behavior</p> <p>12 was. I don't know that they knew</p> <p>13 what purpose --- the purpose was</p> <p>14 clear for them to be in that</p> <p>15 classroom at that particular time.</p> <p>16 What they were to get out of the</p> <p>17 Spanish class felt that students were</p> <p>18 --- she had an agenda, which was a</p> <p>19 good thing, but I'm not sure that</p> <p>20 there was a lot of learning taking</p> <p>21 place, because I remember Ms. deLeon</p> <p>22 never really checked, kind of</p> <p>23 assessed class to see if the concepts</p> <p>24 were mastered before moving on to the</p> <p>25 next. And she just kept going</p>	<p>1 District's expectations. If a</p> <p>2 teacher is under a Corrective Action</p> <p>3 Plan, what do you expect to see from</p> <p>4 the fall to the winter?</p> <p>5 A I expected to see improvement,</p> <p>6 and what I did see was lack of</p> <p>7 improvement, a regression, which I</p> <p>8 was surprised.</p> <p>9 Q And in response or after your</p> <p>10 classroom observation, did you</p> <p>11 discuss this with Ms. deLeon at all?</p> <p>12 A Yes.</p> <p>13 Q And the memo that's ---</p> <p>14 reasons for improvement needed, was</p> <p>15 that specifically --- and again, it's</p> <p>16 a part of Exhibit 11 and it's also</p> <p>17 Exhibit 12. Was that something that</p> <p>18 was --- did you address these</p> <p>19 particular areas of concern with Ms.</p> <p>20 deLeon?</p> <p>21 (Heller Exhibit 12</p> <p>22 marked for</p> <p>23 identification.)</p> <p>24 A Yes, I did.</p> <p>25 BY ATTORNEY BINDER-HEATH:</p>
Page 71	Page 73
<p>1 forward.</p> <p>2 And in my mind from my</p> <p>3 observation, I didn't feel that there</p> <p>4 was a lot of learning taking place.</p> <p>5 And that's what is supposed to happen</p> <p>6 in the classroom, learning. And</p> <p>7 assessment is a very useful tool, and</p> <p>8 it's something that should be</p> <p>9 utilized on a regular basis and there</p> <p>10 is different forms of assessment,</p> <p>11 informal and formal. The formal is</p> <p>12 more of a paper-pencil, which I</p> <p>13 didn't expect to see that day. But I</p> <p>14 didn't see any informal assessing.</p> <p>15 There was very little class</p> <p>16 participations. There were many</p> <p>17 distractions and I was not nearly</p> <p>18 impressed with this lesson as I was</p> <p>19 with the one that I saw in the early</p> <p>20 fall.</p> <p>21 Q And this was later in time?</p> <p>22 A This was much later in time.</p> <p>23 This was just about at the end of the</p> <p>24 first semester.</p> <p>25 Q Relative to the School</p>	<p>1 Q And what was her response?</p> <p>2 A Her response was negative. It</p> <p>3 was very difficult to really have a</p> <p>4 positive meeting with Ms. deLeon.</p> <p>5 She did not accept --- I call it</p> <p>6 constructive criticism, or any</p> <p>7 suggestions from us gracefully.</p> <p>8 Q Let me direct your attention</p> <p>9 to what's been marked as Heller</p> <p>10 Exhibit 13.</p> <p>11 (Heller Exhibit 13</p> <p>12 marked for</p> <p>13 identification.)</p> <p>14 BY ATTORNEY BINDER-HEATH:</p> <p>15 Q As you can see up at the top</p> <p>16 and the handwriting up in the right</p> <p>17 hand corner it says, association, or</p> <p>18 ASSN 15. And in reviewing the</p> <p>19 transcript from the arbitration over</p> <p>20 which Arbitrator Amis prevailed, you</p> <p>21 did testify at that arbitration</p> <p>22 hearing, correct?</p> <p>23 A Uh-huh (yes).</p> <p>24 Q And I believe that this memo</p> <p>25 was something that was produced by</p>

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<p>1 the union on Ms. deLeon's behalf, but 2 there is an issue as to whether or 3 not you had actually ever received 4 this memo dated January 13th of 2003 5 at or about the time, or if it was 6 the first thing --- you first saw it 7 at the arbitration. Do you recall 8 anything about this?</p> <p>9 A Yes, I don't remember 10 receiving this. I made that 11 statement at the arbitration and I 12 stick to that.</p> <p>13 Q And, essentially, after the 14 fact, at the arbitration was the 15 first time that you saw this 16 responsive memorandum?</p> <p>17 A That's correct.</p> <p>18 Q And have you had an 19 opportunity to review this memorandum 20 prior to today's deposition?</p> <p>21 A A long time ago. I haven't 22 reviewed it lately.</p> <p>23 Q But if I could just direct 24 your attention, for example, to --- 25 starting with the middle of page two,</p>	<p>1 many students left the room and she 2 argued that it was only one, not two 3 at the beginning.</p> <p>4 Q Do you feel that she was 5 questioning your veracity or your 6 credibility when she was arguing with 7 you like that?</p> <p>8 A Yes.</p> <p>9 Q And as her superior, how did 10 that make you feel? And I mean 11 superior relative to her position.</p> <p>12 A It made me feel as if she 13 didn't really care what I had to say, 14 and that --- that she had a very 15 insubordinate attitude, and was very 16 uncooperative.</p> <p>17 Q Let me just direct your 18 attention to the last page of this 19 exhibit. Does a Mr. Robert Flippin 20 Jr. work for the School District?</p> <p>21 A No.</p> <p>22 Q Do you have any idea who that 23 is?</p> <p>24 A Yes, he's a gentleman that was 25 involved in PHRC, PHRC hearing. He</p>
Page 75	Page 77
<p>1 going to page three, essentially page 2 two, page three. Actually, I will 3 say towards the --- to the end. Is 4 the information contained in this 5 memorandum essentially indicative of 6 how Ms. deLeon responded to the 7 administration's observations, 8 criticisms, comments, that kind of 9 thing?</p> <p>10 A Yes, very much so.</p> <p>11 Q And essentially, how would you 12 characterize the tone of this 13 memorandum? Is it receptive, is it 14 contentious, is it ---?</p> <p>15 A It was certainly contentious.</p> <p>16 It's not something that --- I mean, 17 there is an excuse to --- for 18 everything that I was trying to make 19 clear to her, and or I was wrong in 20 what I was saying. That I saw 21 something differently. I remember in 22 the meeting that she wanted to argue 23 with me about students leaving the 24 room. I had it scripted, I had it 25 documented, what time they left, how</p>	<p>1 has an office down in Pittsburgh.</p> <p>2 Q He as no affiliation with the 3 school; correct?</p> <p>4 A None.</p> <p>5 Q In this memorandum, are there 6 students' names and confidential 7 student information contained in this 8 memorandum?</p> <p>9 A Yes, there is.</p> <p>10 Q And would you view that as a 11 breach of student confidentiality?</p> <p>12 A I would.</p> <p>13 Q As time progressed during the 14 2002-2003 school year, I know that 15 initially you had indicated to me 16 that when you first met with Ms. 17 deLeon in March of 2002 you really 18 had no --- no knowledge of her other 19 than she was under a Corrective 20 Action Plan?</p> <p>21 A That's correct.</p> <p>22 Q During the next school year, 23 which would be the 2002-2003 school 24 year, where we know you observed her 25 twice formally, did you also have an</p>

<p>Page 78</p> <p>1 opportunity to review any of her 2 files, her valuations or other 3 information in her personnel file? 4 A: Yes. I had the opportunity to 5 look at a few. 6 Q: Did you see any patterns or 7 reoccurring issues concerning her 8 performance in your review of those 9 records? 10 A: Yes, I did. What I did see in 11 her observations is that she usually 12 started the year out pretty well. 13 I'm going to use the word 14 satisfactory as a satisfactory 15 teacher. And as the year progressed 16 Ms. deLeon's performance regressed to 17 a point where it could be determined 18 that she would be unsatisfactory. 19 Q: And is that what you were 20 observing then, personally in the 21 2002-2003 school year? 22 A: That was my personal 23 observation and experience for the 24 2002-2003 school year. 25 Q: Do you recall in late February</p> <p>Page 79</p> <p>1 or March of 2003, the Plaintiff was 2 addressed by Mr. Higgins concerning 3 her failure to track discipline as 4 required by her Corrective Action 5 Plan? 6 A: Yeah, I remember that. 7 Q: And do you recall anything, 8 specifically about that issue? And 9 I'm going to direct your attention to 10 Heller Exhibit 14, which is a March 11 6th, 2003 letter drafted by you to 12 Ms. deLeon concerning a suspension 13 without pay. 14 (Heller Exhibit 14 15 marked for 16 identification.) 17 A: I remember that basically she 18 wasn't following the Action Plan that 19 we had in place for her. 20 Specifically, we weren't seeing any 21 improvement. We felt that she was 22 being insubordinate and 23 uncooperative. Didn't really 24 particularly care to follow what we 25 want her to follow, as it states in</p>	<p>Page 78</p> <p>1 this letter. She didn't maintain a 2 log of student discipline as it was 3 requested. It was a breach of 4 student confidentiality as Mrs. 5 Stockton's son confirmed, and there 6 were a few situations where her 7 reporting for student discipline was 8 not --- was found out to be 9 inaccurate through investigation by 10 the building principals. And the 11 Action Plan had a protocol or process 12 which she was to follow as far as 13 dealing or preventing student 14 discipline from taking place and that 15 was ignored as well. 16 BY ATTORNEY BINDER-HEATH: 17 Q: And going back to the second 18 point in your March 6th, 2003 letter 19 on page one, we had talked about the 20 Stockton situation, the student 21 confidentiality, and, in fact, the 22 memo that I just showed you that was 23 drafted by the Plaintiff dated 24 January 13th, 2003. 25 A: Yes.</p> <p>Page 80</p> <p>1 Q: Where she, for example, cc'd 2 Mr. Flippin. 3 A: Yes. 4 Q: What that also part of your 5 concerns? 6 A: That's part of my concern as 7 well. 8 Q: And it may not be that 9 particular memorandum, but were you 10 aware there are other letters and 11 things of that nature ---? 12 A: Yes. 13 Q: Let me finish my question. 14 Things of that nature where she 15 copied people that were outside the 16 District? 17 A: Yes. 18 Q: And that was all subsumed in 19 this letter of March 6th? Okay. 20 A: Correct. 21 Q: You indicate here, we are 22 scheduling a meeting on Tuesday March 23 11th, 2003 at 3:30 in the 24 administration office to discuss and 25 review these items. Those present on</p> <p>Page 81</p>
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<p>Page 82</p> <p>1 tthalf of the administration at the 2 meeting will include, Mr. Dolecki, 3 George Deshner, John Higgins and 4 myself. Please be aware that you're 5 entitled to bring an association 6 representative with you to the 7 meeting. Did that meeting take 8 place? 9 A Yes. 10 Q And do you recall anything 11 specifically about that meeting? 12 A Just that we held the meeting 13 --- 14 Q And let me just --- I'm sorry, 15 my fault let me back up first. This 16 letter that you had written her, 17 which was Heller Exhibit 14, she was 18 going to be suspended with pay? 19 A Correct. 20 Q I want to make the 21 distinction. Prior to an 22 investigation occurring? 23 A Right? 24 Q And then during that time off, 25 did an investigation actually occur</p> <p>Page 83</p> <p>1 prior to March 11th? 2 A Yes, it did. 3 Q And what do you recall was 4 concluded at that investigation? 5 A Well, the --- I guess from the 6 first exhibit that investigation 7 supported --- the allegations, I 8 guess were supported through our 9 investigation. 10 Q Relative to this --- not 11 keeping the student log, not 12 following the Corrective Action Plan, 13 breach of student confidentiality. 14 A Well, to the document of March 15 18th. That was all supported through 16 the investigation. 17 Q Now, prior to March 18th, you 18 did have a meeting with Ms. deLeon on 19 March 11th, 2003. 20 A Yes. 21 Q Do you recall anything 22 independently about what occurred at 23 that meeting? And then actually, 24 I'll show you what we'll mark as 25 Heller Exhibit 15, which is a March</p>	<p>Page 84</p> <p>1 18th, 2003 letter from Mr. Dolecki on 2 which you were copied. And a 3 specific reference to the meeting 4 March 11th is made at the bottom of 5 page two, going on to page three, and 6 then throughout. If you want to take 7 a moment and review it that's fine. 8 (Heller Exhibit 15 9 marked for 10 identification.) 11 ATTORNEY NICHOLS: 12 Can we take a 13 five-minute break? 14 ATTORNEY BINDER-HEATH: 15 Sure. 16 ATTORNEY NICHOLS: 17 Okay. Thank you. 18 OFF RECORD DISCUSSION 19 BY ATTORNEY BINDER-HEATH: 20 Q Relative to the March 11th, 21 2003 meeting, which occurred prior to 22 the suspension of for five days with 23 pay, or without pay, I'm sorry. What 24 do you recall about that meeting? 25 A Just that Ms. deLeon was ---</p> <p>Page 85</p> <p>1 her demeanor was the same as usual. 2 She was very contentious, 3 uncooperative, I can't remember 4 whether it was that meeting or a 5 meeting after where during the 6 meeting her cell phone went off and 7 she received a call from Mr. Filppin, 8 which was really kind of out of 9 character. He was, in my opinion 10 anyway, he was the hearing officer, 11 he wasn't somebody that was 12 representing either party. He was 13 somebody who had been assigned to the 14 case from Pittsburgh. That's just 15 kind of --- 16 Q They called her on her cell 17 phone? 18 A Called her on her cell 19 phone --- 20 Q And did she take it at the 21 meeting with the administration? 22 A She attempted to and then was 23 discouraged by a representative. 24 They had to strongly encourage her 25 not to take the phone call, if I</p>
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Page 86	Page 88
<p>1 remember correctly.</p> <p>2 Q And do you recall anything</p> <p>3 else about the meeting?</p> <p>4 A No, not really.</p> <p>5 Q Did she, at any time say, I</p> <p>6 understand your position. You're</p> <p>7 right about this, you're wrong about</p> <p>8 that, I'll try to improve? I mean,</p> <p>9 did she indicate that she was willing</p> <p>10 to work with the administration at</p> <p>11 this time?</p> <p>12 A I don't even remember Ms.</p> <p>13 deLeon ever indicating she was</p> <p>14 willing to work with us. The only</p> <p>15 thing I ever remember is her</p> <p>16 unwillingness to work with us.</p> <p>17 Q In looking at Exhibit 15,</p> <p>18 which is the letter dated March 18th,</p> <p>19 2003 from Mr. Dollecki suspending Ms.</p> <p>20 deLeon for five days without pay ---</p> <p>21 A Yes.</p> <p>22 Q --- did you have an</p> <p>23 opportunity to review this letter?</p> <p>24 A Yeah.</p> <p>25 Q In your opinion and in your</p>	<p>1 would be accused of doing something</p> <p>2 that maybe another student really</p> <p>3 did, would be the most obvious. For</p> <p>4 example, ---</p> <p>5 Q Are you aware of the gum</p> <p>6 throwing incident? Someone threw gum</p> <p>7 at her hair?</p> <p>8 A Yes, and it was --- I think</p> <p>9 one student was accused and it</p> <p>10 happened to be another student.</p> <p>11 Q And when Ms. deLeon was made</p> <p>12 aware that it was really a different</p> <p>13 student, do you recall her reaction?</p> <p>14 A She wasn't happy about it.</p> <p>15 She didn't believe it or agree with</p> <p>16 it.</p> <p>17 Q Even though ---</p> <p>18 A Even though there was an</p> <p>19 investigation and there was a person</p> <p>20 who eventually admitted to doing it.</p> <p>21 Q And she still didn't believe</p> <p>22 it?</p> <p>23 A She still didn't believe it.</p> <p>24 She felt that it was some type of</p> <p>25 conspiracy against her.</p>
Page 87	Page 89
<p>1 recollection, is it an accurate</p> <p>2 representation of what occurred and</p> <p>3 the reasons the District determined</p> <p>4 that five days without pay was</p> <p>5 appropriate?</p> <p>6 A Yes.</p> <p>7 Q Do you recall issues</p> <p>8 concerning inconsistency with the</p> <p>9 Plaintiff's story, stories that she</p> <p>10 would tell various administrators</p> <p>11 being an issue?</p> <p>12 A Yeah, I remember some</p> <p>13 inconsistencies. Specifically ---</p> <p>14 Q Was it relating to student</p> <p>15 discipline, for example?</p> <p>16 A Oh, yeah, yeah. And I had</p> <p>17 stated that earlier about the</p> <p>18 inaccurate reporting, which would</p> <p>19 prove to be inconsistencies with</p> <p>20 student discipline and behaviors.</p> <p>21 Q And what do you mean by that?</p> <p>22 What do you mean by inaccurate</p> <p>23 reporting?</p> <p>24 A What I remember --- what I</p> <p>25 remember would be that a student</p>	<p>1 Q Okay. Let me direct your</p> <p>2 attention now to after this five-day</p> <p>3 suspension without pay in April of</p> <p>4 2003. Do you recall several meetings</p> <p>5 occurring in a fairly short period of</p> <p>6 time in early April 2003 with the</p> <p>7 administration, the Plaintiff and her</p> <p>8 union representative?</p> <p>9 A Uh-huh (yes).</p> <p>10 Q And do you recall anything</p> <p>11 specifically about any of those</p> <p>12 meetings where you were in</p> <p>13 attendance?</p> <p>14 A Specific to what?</p> <p>15 Q And I'll just say, you didn't</p> <p>16 draft any memorandum concerning these</p> <p>17 meetings?</p> <p>18 A No.</p> <p>19 Q There is a memo that Mr.</p> <p>20 Deshner had drafted relative to one</p> <p>21 of these meetings where, I believe,</p> <p>22 you had warned Ms. deLeon about being</p> <p>23 argumentative?</p> <p>24 A Yes.</p> <p>25 Q Does that refresh your</p>

<p>1 recollection at all?</p> <p>2 A.Yeah, I remember talking to</p> <p>3 her about being argumentative and to</p> <p>4 listen to what the administration has</p> <p>5 to say.</p> <p>6 QAnd how did Ms. deLeon react</p> <p>7 when you warned her about being</p> <p>8 argumentative?</p> <p>9 AIt never changed her behavior.</p> <p>10 QShe continued to be</p> <p>11 argumentative?</p> <p>12 AYes.</p> <p>13 QDo you recall a particular</p> <p>14 meeting that occurred where, again,</p> <p>15 Ms. deLeon had an emotional outburst</p> <p>16 and had to be ushered from the room</p> <p>17 by her union people?</p> <p>18 AYes.</p> <p>19 QAnd I know we talked about the</p> <p>20 one a year earlier, but do you recall</p> <p>21 a second meeting about this in April</p> <p>22 of 2003 where she had a outburst?</p> <p>23 A I remember Ms. deLeon having</p> <p>24 another outburst which she had to be</p> <p>25 removed, ushered, encouraged to leave</p>	<p>Page 90</p> <p>1 QOkay.</p> <p>2 AMaybe. And there were --- Mr.</p> <p>3 Higgins was there, myself, Mr.</p> <p>4 Deshner, Claudette and two CCEA</p> <p>5 people. Usually when we had meetings</p> <p>6 there were two CCEA people. Joanne</p> <p>7 Willison was one. She's the one that</p> <p>8 escorted Ms. deLeon from the class</p> <p>9 --- or from the office.</p> <p>10 QAnd I believe Mr. Roznowski</p> <p>11 was there also.</p> <p>12 AOkay. Mr. Roznowski, the</p> <p>13 other. Mr. Deshner was going over</p> <p>14 the observation, Ms. deLeon didn't</p> <p>15 like --- I believe she didn't like</p> <p>16 what he was saying and she got</p> <p>17 extremely upset and kind of</p> <p>18 confronted --- physically she --- say</p> <p>19 physically she attempted to confront</p> <p>20 Mr. Deshner. And she made a move,</p> <p>21 physically, by standing up and going</p> <p>22 towards Mr. Deshner and telling him</p> <p>23 that he was out to get her and didn't</p> <p>24 like her. And she was yelling and</p> <p>25 screaming and at that point before</p>
<p>1 the room. We were in a ---</p> <p>2 QIsn't it a fact at her union</p> <p>3 representative actually physically</p> <p>4 took her by the arm and removed her?</p> <p>5 AYes.</p> <p>6 QAnd what do you recall?</p> <p>7 AWe were at a meeting in Mr.</p> <p>8 Deshner's office, which he was the</p> <p>9 principal of Meadville Area Senior high</p> <p>10 school and I believe that Mr. Deshner</p> <p>11 went over an observation of some sort</p> <p>12 and Ms. deLeon just kind of came</p> <p>13 unglued.</p> <p>14 QWas it at a table?</p> <p>15 AIt was at a table. He had a</p> <p>16 conference table in his office.</p> <p>17 Probably about the size of, you know,</p> <p>18 one of these about a fourth of this</p> <p>19 size of one of these tables by</p> <p>20 itself. And we were sitting there and</p> <p>21 ---</p> <p>22 QSo how big would you say that</p> <p>23 is about? How many feet?</p> <p>24 AAbout roughly six foot, six</p> <p>25 foot by three.</p>	<p>Page 91</p> <p>1 she could do anything, what I thought</p> <p>2 could potentially turn into something</p> <p>3 physically, Mrs. Willison grabbed her</p> <p>4 by the arm and strongly encouraged,</p> <p>5 let her out of the office, and that</p> <p>6 kind of concluded that meeting for</p> <p>7 the day.</p> <p>8 QIn your administrative</p> <p>9 experience was that something that</p> <p>10 you had seen before?</p> <p>11 ANo.</p> <p>12 QHow did that strike you?</p> <p>13 A I was shocked, once again. I</p> <p>14 just, you know, well, many things</p> <p>15 that took place over that period of</p> <p>16 time that was the first time that I</p> <p>17 experienced or witnessed those types</p> <p>18 of behavior from someone who is</p> <p>19 considered to be a professional. And</p> <p>20 since then I have yet to experience</p> <p>21 it again.</p> <p>22 QLet me show you what's been</p> <p>23 marked as Helter Exhibit 16, which is</p> <p>24 an unsatisfactory evaluation for the</p> <p>25 2002-2003 school year, dated April</p>
	<p>Page 93</p>

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<p>1 11th, 2001; 2 Heller Exhibit 16 3 marked for 4 identification.) 5 BY ATTORNEY BINDER-HEATH: 6 Q Did this unsatisfactory 7 evaluation to your knowledge, follow 8 the meeting and --- that'll be my 9 first question. The meeting we just 10 discussed? 11 A Yes. 12 Q And did it also incorporate 13 all of the other observations by 14 various administrators both formal 15 and informal throughout the year? 16 A Yes. 17 Q And are you in agreement with 18 this evaluation where she has been 19 deemed unsatisfactory? 20 A I agree with the entire 21 evaluation. 22 Q And from your own personal 23 observations, did you note that there 24 were certain issues with classroom 25 rules being enforced inconsistently?</p>	<p>1 Looking at F. communication, 2 again unsatisfactory. Ms. deLeon 3 refuses to communicate with the 4 administration. She refuses to 5 accept suggestions, the 6 administrators observations and the 7 action plan developed to help her in 8 the classroom. Is that something you 9 also observed personally? 10 A Yes, I observed that 11 personally. 12 Q Is it your understanding that 13 ultimately there was a recommendation 14 to terminate Ms. deLeon? 15 A Yes. 16 Q And I'll show you --- or 17 direct your attention to Heller 18 Exhibit 17, which is an April 30th, 19 2003 notice of hearing and statement 20 of charges letter. And this 21 ultimately went to an arbitration. 22 And you indicated that you did 23 testify at this arbitration, correct? 24 (Heller Exhibit 17 25 marked for</p>
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<p>1 Such as under number I, C, is that 2 something that you were aware of? 3 A Yes. 4 Q And would you agree then from 5 your own personal experience and 6 observations with Roman numeral II, 7 A, responds to supervision, Ms. 8 deLeon has consistently demonstrated 9 her unwillingness to work with the 10 administration in an effort to 11 improve. She consistently uses the 12 word, quote, fight, end quote, the 13 administration on issues of 14 improvement. She has lately become 15 more verbally and physically 16 aggressive towards the building 17 administration; would you agree with 18 that? 19 A I agree. 20 Q Looking at page two under D, 21 maturity. It says, Ms. deLeon's 22 negativity towards the administration 23 has been extremely unprofessional. 24 Do you agree with that as well? 25 A Yes.</p>	<p>1 identification.) 2 A Yes. 3 BY ATTORNEY BINDER-HEATH: 4 Q At these proceedings I believe 5 you testified on two different days? 6 A Yes. 7 Q And at that time, Ms. deLeon 8 was represented by Counsel, is that 9 correct? 10 A Yes. 11 Q And are you aware that the 12 arbitrator upheld the termination as 13 being based on Just Cause? 14 A Yes. 15 Q And do you believe that that 16 termination was warranted? 17 A Yes. 18 Q Why do you believe that? 19 A Because I just don't feel that 20 Ms. deLeon first can meet the 21 expectations as a Spanish teacher in 22 the Crawford Central School District, 23 which in turn would benefit students 24 of Crawford Central School District. 25 Ms. deLeon had made a decision a</p>

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<p>1 long time ago that she was not ---</p> <p>2 she demonstrated an unwillingness to</p> <p>3 work as a team member of the Crawford</p> <p>4 Central School District team and was</p> <p>5 unwilling to try to make the</p> <p>6 improvements necessary to make her a</p> <p>7 proficient or a competent teacher.</p> <p>8 Q Was she targeted, again,</p> <p>9 because of her national origin?</p> <p>10 A No.</p> <p>11 Q Was she targeted because of</p> <p>12 her gender?</p> <p>13 A No.</p> <p>14 Q Relative to gender, can you</p> <p>15 give me a rough percentage of the</p> <p>16 percentage of teachers in your</p> <p>17 District that are women versus men?</p> <p>18 Would you say there are more women,</p> <p>19 more men, about equal?</p> <p>20 A I would say that there is</p> <p>21 probably more women. I think that we</p> <p>22 have many more women at the</p> <p>23 elementary level than we do at the</p> <p>24 secondary level. I would have to say</p> <p>25 that overall we have more female than</p>	<p>1 Q And does the District take any</p> <p>2 proactive preventative measures to</p> <p>3 ensure that unlawful harassment or</p> <p>4 discrimination does not occur?</p> <p>5 A Yes, I believe we do.</p> <p>6 Q Such as what? Training?</p> <p>7 A There's trainings. If we're</p> <p>8 made aware of anything that would be</p> <p>9 covered under those policies we</p> <p>10 immediately investigate without any</p> <p>11 hesitation.</p> <p>12 Q And how is it your policy</p> <p>13 goes, I'm assuming, from student to</p> <p>14 teacher, teacher to student.</p> <p>15 Administrative to teacher ---.</p> <p>16 A Yeah. It covers every ---.</p> <p>17 Q Student to student?</p> <p>18 A --- interaction at the</p> <p>19 Crawford Central School District.</p> <p>20 Q Are there disciplinary</p> <p>21 procedures outlined and imposed for a</p> <p>22 violation of the policy?</p> <p>23 A Yes.</p> <p>24 Q And, in your experience, does</p> <p>25 the District have a pattern or</p>
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<p>1 males in our professional staff.</p> <p>2 Q And the prior union president</p> <p>3 is a female, Patricia Deardorff,</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 Q And then she now is a member</p> <p>7 of the administrative team?</p> <p>8 A That's correct.</p> <p>9 Q Was Ms. deLeon ever a target</p> <p>10 for any harassment or discrimination</p> <p>11 based on her perceived mental</p> <p>12 disability?</p> <p>13 A No.</p> <p>14 Q Does the School District have</p> <p>15 an unlawful harassment policy</p> <p>16 prohibiting discrimination or</p> <p>17 harassment?</p> <p>18 A We have a policy.</p> <p>19 Q And was that something that</p> <p>20 you believe was utilized in this</p> <p>21 case?</p> <p>22 A Yes.</p> <p>23 Q Does the District take this</p> <p>24 policy seriously?</p> <p>25 A Yes, we do.</p>	<p>1 practice of discrimination against</p> <p>2 minorities?</p> <p>3 A No.</p> <p>4 Q What about against individuals</p> <p>5 with disabilities or perceived</p> <p>6 disabilities?</p> <p>7 A No.</p> <p>8 Q Does the District have any</p> <p>9 pattern or practice of discrimination</p> <p>10 against women?</p> <p>11 A No.</p> <p>12 Q You indicated at the beginning</p> <p>13 of the deposition that since you have</p> <p>14 been on board, you have hired four</p> <p>15 minority teachers and I asked about</p> <p>16 your attempts to try to encourage</p> <p>17 minorities to apply to the area.</p> <p>18 You've indicated that there was some</p> <p>19 issues because of the geographical</p> <p>20 location of School District. And can</p> <p>21 you be more specific? Is that</p> <p>22 relative to just the general</p> <p>23 population pool?</p> <p>24 A I think it's mainly the</p> <p>25 general population pool. I think</p>

1 That, you know, most of our --- many
 2 of our applications are from people
 3 who are part of Northwest
 4 Pennsylvania. They are born and
 5 raised and they like to stay close to
 6 home, and I believe that would be
 7 very similar in other areas.
 8 Plus, the minority population
 9 within Crawford Central School
 10 District and Crawford County in which
 11 we're located does not have a very
 12 high percentage of minorities. And
 13 so you will see a higher
 14 concentration of minority applicants
 15 in more urban, suburban school
 16 districts that you will Crawford
 17 Central School District. And we made
 18 attempts to recruit with no avail.
 19 Q Thank you, I have nothing
 20 further.
 21 ATTORNEY BINDER-HEATH:
 22 Before you start, Mr.
 23 Nichols, may I have a minute?
 24 ATTORNEY NICHOLS:
 25 Uh-huh (Yes).

1 A I said, building principals.
 2 Q Building principals. Okay.
 3 Is that correct?
 4 A That's correct.
 5 Q Okay. And in that particular
 6 role in dealing with building
 7 principals, I'll just refer to them
 8 as principals, what essentially would
 9 be your day-to-day responsibilities?
 10 A My day-to-day responsibilities
 11 with the principals --- I don't know
 12 if I'd say day to day --- I had day
 13 to day responsibilities, because
 14 sometimes I don't have any
 15 interaction with the building
 16 principals for weeks. It just
 17 depends on the situation. It could
 18 be a series of different things that
 19 require support from the central
 20 office, which would include Mr.
 21 Dolecki, superintendent or myself or
 22 sometimes both of us depending on
 23 who's available. So you know, for me
 24 to specifically one thing that would
 25 be pretty hard to come up with. It's

1 ATTORNEY BINDER-HEATH:
 2 Thank you.
 3 ATTORNEY NICHOLS:
 4 Okay. We're back on
 5 the record now. It's
 6 approximately almost five
 7 minutes to 3:00. Today is
 8 April 24th, 2006.
 9 OFF RECORD DISCUSSION
 10 EXAMINATION
 11 BY ATTORNEY NICHOLS:
 12 Q Mr. Heller, I have a few
 13 questions I'd like to ask you. The
 14 first is, if you could help me on the
 15 hierarchy of the administration of
 16 the School District. You came as
 17 assistant superintendent in February
 18 2002; is that correct?
 19 A Correct.
 20 Q Okay. And essentially, one of
 21 your responsibilities at that time
 22 was dealing with the principals?
 23 A I have ---
 24 Q You call them the building ---
 25 you use another term. Building ---?

1 a whole litany of things.
 2 Q Okay. As assistant
 3 superintendent, of course you serve
 4 on the staff of Mr. Dolecki, the
 5 superintendent; is that correct?
 6 A That's correct.
 7 Q And you report to Mr. Dolecki
 8 for essentially all purposes; is that
 9 correct?
 10 A That's correct.
 11 Q What would be the proper ---
 12 how would you characterize your
 13 relationship with the principals? I
 14 said, day to day, you said no, that's
 15 not accurate. How would you describe
 16 the relationship? What would be the
 17 proper characterization of your
 18 relationship with them as assistant
 19 superintendent?
 20 A I have ---?
 21 Q Do you have oversight
 22 responsibility?
 23 A Excuse me?
 24 Q Oversight? Would that be
 25 accurate?

<p>Page 106</p> <p>1 A.Oversight? I would say it's 2 all inclusive responsibilities. 3 QSupervisory? 4 A.Officially, officially I 5 supervise the secondary principals. 6 QSecondary principals? 7 A.Yes. Meaning, the high school 8 principals, middle school principals. 9 That's my responsibility 10 specifically. 11 QOkay. 12 A.Mr. Dolecki does the 13 elementary. 14 QElementary? 15 A.Yes. 16 QAnd in this --- let's turn to 17 Mr. Deshner, he is a secondary? 18 A.That's correct. 19 QAnd of course, that 20 relationship would pertain, with 21 respect to him, you would have --- 22 you were a supervisor, supervisory 23 responsibility. 24 A.I would say direct supervisory 25 responsibility of Mr. Deshner at that</p>	<p>Page 108</p> <p>1 who has the locus of authority with 2 respect to the following list I'm 3 going to recite. The reprimanding 4 the teachers, who has that authority? 5 ATTORNEY BINDER-HEATH: 6 I'm just going to 7 object to form because I think 8 there are various levels of 9 reprimand. 10 ATTORNEY NICHOLS: 11 Well, he can explain. 12 BY ATTORNEY NICHOLS: 13 QPlease, do. 14 AHow elaborate do you want me 15 to get? 16 QWell, I would like you to be 17 responsive into the terms of what the 18 chain of command of administrative 19 managerial authority in the School 20 District. Who has authority to 21 reprimand teachers? 22 A.Well, let me make this clear, 23 first of all, all the administrators 24 have a sense of responsibility, and 25 we have many administrators within</p>
<p>Page 107</p> <p>1 time, yes. 2 QOkay. I've got to see if you 3 can help me now. I have terms over 4 this, there is still folks in the 5 hierarchy and responsibility --- 6 allocation of responsibilities of 7 management and administrative 8 personnel in the School District. If 9 you could help me, first of all, in 10 the terms of delineating areas of 11 authority and responsibility. And 12 what would be helpful as I recite the 13 different areas here --- matters 14 which would call for the approval. 15 If you could tell me who would have 16 authority to give approval? Okay. 17 And it may well be the Board of 18 Directors, Mr. Dolecki as 19 superintendent, you, yourself, as a 20 superintendent, Mr. Deshner as the 21 principal, or the principal's staff 22 if you know, or teachers. Okay. 23 Let's start if we may? The reprimand 24 of teachers, who has that authority? 25 And I understand what I'm asking is</p>	<p>Page 109</p> <p>1 the Crawford Central School District. 2 But ultimately, the superintendent, 3 Mr. Dolecki is responsible for the 4 entire district. So what 5 responsibility I have this week, may 6 change to what responsibility I have 7 next week due to the direction of my 8 superior, which is Mr. Dolecki. And 9 that same thing goes with the people, 10 I guess, below me. As principals, 11 assistant principals, we all have a 12 responsibility to reprimand, but it 13 depends on the situation. Unless you 14 get specific to the situation I can't 15 answer that question. 16 QI put the same question to Mr. 17 Deshner and he advised me that as a 18 school principal, he had authority to 19 reprimand, but he did not have the 20 authority to suspend. He made a 21 distinction. 22 A.That's correct. 23 QSo I'm asking specifically 24 with respect to the following 25 actions. I think it's attendant to</p>

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<p>1 the respective position not the 2 individual who holds it. 3 A The respective position? Yes. 4 Q Okay. So if I go back, the 5 reprimand of teachers, the principals 6 normally, would it be correct to say 7 that principals have that authority? 8 ATTORNEY BINDER-HEATH: 9 And again I'm going to 10 object because there is --- 11 under the collective 12 bargaining agreement and under 13 the school code, there is the 14 term reprimand, that can be a 15 written reprimand or a memo 16 confirming a verbal reprimand, 17 which is more formal than your 18 typical common English usage 19 of the word reprimand. So I 20 just want to make that 21 distinction. You can answer 22 the question. 23 BY ATTORNEY NICHOLS: 24 Q Let's say written reprimand, 25 let's take written reprimand. Is</p> <p>Page 111</p> <p>1 normally imposed by principals? 2 A Principals have the authority 3 to give a written reprimand, yes. 4 Q And the suspension of 5 teachers? 6 A I think according to the 7 school code, the only person that has 8 the authority to do that is the 9 superintendent or his designee, is 10 the way it's written. 11 Q All right. The firing or 12 termination of tenured teachers? 13 A I believe that's the Board. 14 Q That's the Board? 15 A Termination? 16 Q Correct. 17 A Board. 18 Q Okay. Does the 19 superintendent's office play any 20 role? 21 A Of termination? 22 Q In the termination process? 23 A Recommendation. 24 Q All right. The tape recording 25 of classes by students and then by</p>	<p>1 teachers, who has the authority to 2 authorize a student to tape classes, 3 and then in turn, who has the 4 authority to authorize a teacher to 5 tape classes? Do you know? 6 A How has the authority to allow 7 the students to tape classes? 8 Q Uh-huh (yes). 9 A And who was the authority for 10 teachers to tape classes? 11 Q That's right. 12 A We have a policy within our 13 District that provides the authority 14 to tape classes. 15 Q You have an express authority 16 --- express policy I should say? 17 A Yes. 18 Q And as to the circumstances 19 under which taping classes is 20 allowed? 21 A Yes. It's allowed with 22 authority. Permission. 23 Q With permission. Okay. 24 A There is a procedure or 25 protocol that you must follow in</p> <p>Page 113</p> <p>1 order to receive permission to do so. 2 Q Okay. 3 A I can't give you --- I'd have 4 to re-look at it. I mean, we have a 5 book with the policy. I don't have 6 them all memorized so I'd have to 7 look at it. 8 Q Does a teacher normally have 9 authority to tape class, I should 10 say? Do you know? To make a tape 11 recording of classes? 12 A Do they have permission? 13 Q Does the teacher have 14 authority under the policy to which 15 you referred? 16 A Like I told you earlier, I 17 haven't looked at that policy for a 18 long time, and to answer that 19 question I would have to revisit that 20 policy. I'd have to take a look at 21 it to be able to specifically answer 22 that. 23 Q Who has authority to demand 24 the resignation of a teacher? 25 A I don't know if anybody has</p>

<p>1 the authority to demand the 2 resignation. That's a pretty strong 3 word, demand. 4 Q To ask for? 5 A Superintendent, designee. 6 Q Okay. Who has the authority, 7 or who is charged with the 8 responsibility of implementing the 9 Americans with Disabilities Act? 10 A We all do. 11 Q When you say we all do, who 12 are you referring to? 13 A From the superintendent down, 14 the administration, we all have a 15 responsibility in that. 16 Q And in this particular case, 17 beginning with the superintendent's 18 office, who had the day-to-day 19 responsibility for ensuring 20 compliance with the ADA law 21 throughout the District? I 22 understand that Mr. Dolecki as the 23 chief executive officer, the 24 superintendent of the School District 25 has that authority. That's resident</p>	<p>Page 114</p> <p>1 I'm going to object to 2 form, as it assumes there are 3 problems on a daily basis. 4 ATTORNEY NICHOLS: 5 I'm not assuming, I'm 6 just simply asking him, do you 7 have a public policy? 8 BY ATTORNEY NICHOLS: 9 Q Is not the School District 10 bound by the ADA law as it is all 11 federal mandates, Mr. ---? 12 A Yes. 13 Q So it's a fair question isn't 14 it? You're an administrator, you're 15 a manager just as Mr. Dolecki. Who 16 implements these laws that's all I'm 17 asking. It's a fair question isn't 18 it? 19 ATTORNEY BINDER-HEATH: 20 I believe he's answered 21 the question. 22 ATTORNEY NICHOLS: 23 I don't think so. I 24 don't think he answered the 25 questions. I answered another</p> <p>Page 116</p>
<p>Page 115</p> <p>1 with him. Okay? But I mean, in 2 terms of his designee, does he 3 designate someone else, like yourself 4 to ensure compliance with the ADA 5 law? 6 A Now, I think --- as I said, I 7 think we all --- all of us have a 8 responsibility. 9 Q I understand that, but I'm 10 trying to be more specific as to 11 staffing. For example, if a 12 principal or some teacher had an ADA 13 problem or compliance with it and the 14 problem was not resolved at the 15 principal level, to whom would that 16 principal, that teacher go? 17 A I would go to Mr. Dolecki. 18 Q Mr. Dolecki? 19 A Yes. 20 Q Okay. Now, of course as a 21 part of Mr. Dolecki's team, who would 22 have the day-to-day responsibility 23 for addressing or dealing with the 24 ADA problem? 25 ATTORNEY BINDER-HEATH:</p>	<p>Page 117</p> <p>1 question. 2 BY ATTORNEY NICHOLS: 3 Q You said, it was going to come 4 to Mr. Dolecki, and then I say, on a 5 day-to-day basis, does Mr. Dolecki as 6 the superintendent, assign someone on 7 his staff a designee? 8 A He could. 9 Q And what --- do you know who? 10 Did he? 11 A No, he has the ability to do 12 that. 13 Q I understand that, but that's 14 still not my answer --- it's not an 15 answer. The question is did he, and 16 if so could you identify the person? 17 A I can't answer that question 18 because you'd have to give me a 19 specific situation. 20 Q I've said ADA law, you're 21 familiar with the ADA law aren't you? 22 A Yes. 23 Q Okay. Well, it would be any 24 problem which arises under the ADA 25 law.</p>

<p>Page 118</p> <p>1 A And I answered the question. 2 The superintendent --- 3 Q Well, you said the 4 superintendent, but I'm trying to be 5 more specific. 6 A Mr. Dolceki may deal with all 7 of them and I --- 8 Q All right. Let me ask you 9 this then. Has there been occasions 10 where ADA problems have been --- has 11 Mr. Dolceki has assigned you to deal 12 with ADA problems that arise from the 13 school principals or teachers? 14 A I don't think we have too many 15 problems regarding ADA. 16 Q Well, I'm asking you any? In 17 your memory or your experience? 18 A I don't have any memory of it 19 at this point. 20 Q You don't recall any situation 21 since you have come to the School 22 District and serving now as assistant 23 superintendent where you have been 24 assigned to address or deal with ADA 25 problems? No occasion has that</p>	<p>Page 120</p> <p>1 sabbatical leave for medical reasons, 2 who's authority is it? Who has 3 authority to do that? 4 A Ultimately? 5 Q To grant request for 6 sabbatical leave? 7 A The School Board. 8 Q The School Board? 9 A Yes. 10 Q Does the superintendent's 11 office play any role when such 12 requests are made to the School Board 13 in terms of recommendation? 14 A For a medical sabbatical? 15 Q Right. 16 A I don't believe so. 17 Everything that goes on the Board 18 agenda goes through the 19 superintendent's office. 20 Q Right. Okay. And if it comes 21 through the superintendent's office, 22 the superintendent's office makes a 23 recommendation on it, right, to the 24 Board? Is that correct? Would that 25 be the operating procedure?</p>
<p>Page 119</p> <p>1 happened? 2 A I can't think of one right 3 now. 4 Q Okay. All right. Continuing. 5 The power to assign classrooms and 6 facilities to be used by teachers, 7 whose function or authority is that? 8 A Building principal. 9 Q Building principal, okay. 10 A I'm going to say principals. 11 At the secondary level we have more 12 than one. So it would be principals. 13 But ultimately, it's just like the 14 superintendent, ultimately the 15 principal is responsible for the 16 building. The assistants work under 17 the direction of the principal. 18 Q And that would also be true 19 with respect to the assignment of 20 courses to be taught by the teaching 21 staff? 22 A Yes. 23 Q Okay. 24 A Principals. 25 Q The granting of request for</p>	<p>Page 121</p> <p>1 A Not necessarily. Some of the 2 things go without recommendation. 3 Q Without recommendation? 4 Typically, would a request for 5 sabbatical leaves made typically, in 6 your experience, would the 7 superintendent's office make a 8 recommendation or abstain and send it 9 forward to the Board? 10 A Well, let's put it this way, 11 from my experiences, I don't think 12 the superintendent has abstained from 13 any --- in my experience from medical 14 sabbaticals. They have been 15 requested through the Board and I 16 don't remember if the Board has ever 17 asked for anybody's recommendation or 18 anybody administratively, which would 19 be the superintendent's 20 recommendation or approval for --- to 21 grant this person a medical 22 sabbatical. Usually, the request is 23 in a document form and it explains 24 the purpose behind taking a medical 25 sabbatical, that's good enough for</p>

<p>1 the Board.</p> <p>2 Q So typically the Board --- I</p> <p>3 mean, the superintendent's office</p> <p>4 would make a recommendation then?</p> <p>5 ATTORNEY BINDER-HEATH:</p> <p>6 Objection.</p> <p>7 A No, I just explained what I</p> <p>8 thought the process was. I didn't</p> <p>9 say that.</p> <p>10 BY ATTORNEY NICHOLS:</p> <p>11 Q Oh, I thought I understood you</p> <p>12 saying --- correct me if I'm wrong, I</p> <p>13 thought I heard you say that in the</p> <p>14 case of these types of medical</p> <p>15 requests of a sabbatical requested</p> <p>16 medical leave, the recommendation</p> <p>17 would go following to the Board?</p> <p>18 A I said, everything goes</p> <p>19 through --- everything that goes on</p> <p>20 the Board agendas goes through the</p> <p>21 superintendent's office. That's Mr.</p> <p>22 Dolecki, the superintendent, he's the</p> <p>23 one that puts together the agenda for</p> <p>24 the committee meetings and for the</p> <p>25 regular Board meetings. And that</p>	<p>Page 122</p> <p>1 --- or route to, passes through the</p> <p>2 superintendent's office en route to</p> <p>3 the Board. He is recommended by the</p> <p>4 superintendent's office. That's what</p> <p>5 I was trying to clarify, okay?</p> <p>6 A Okay.</p> <p>7 Q Continuing. Annual evaluation</p> <p>8 of teachers? Is that ---?</p> <p>9 A Principal.</p> <p>10 Q Principal? Okay. And when</p> <p>11 class observations are to be --- on</p> <p>12 teachers are conducted, is that also</p> <p>13 a function of the principal?</p> <p>14 A That's a typical function of</p> <p>15 the principal, but that doesn't mean</p> <p>16 the principal is the only one that</p> <p>17 conducts observations. Mr. Dolecki</p> <p>18 and myself also do observations. Or</p> <p>19 have the ability to do the</p> <p>20 observations as well.</p> <p>21 Q The management of classrooms</p> <p>22 and students are the teacher's right?</p> <p>23 Principally?</p> <p>24 A Yes.</p> <p>25 Q Primarily. The management of</p>
<p>Page 123</p> <p>1 would be something that would go to</p> <p>2 Mr. Dolecki's office but the approval</p> <p>3 is made at the Board level, and my</p> <p>4 experience is anyway I'm sure there</p> <p>5 has been different things that have</p> <p>6 happened before my experience, if</p> <p>7 there is a document, a written</p> <p>8 document that is with the --- that's</p> <p>9 part of the request and it explains</p> <p>10 why this person needs a medical</p> <p>11 sabbatical and there's usually a</p> <p>12 doctor's excuse to go with it, and</p> <p>13 the board looks at that. That's</p> <p>14 forwarded to the Board, and then they</p> <p>15 proceed.</p> <p>16 Q Okay.</p> <p>17 A With approvals, that's been my</p> <p>18 experience.</p> <p>19 Q That's right. I think you did</p> <p>20 address my question, in the case of</p> <p>21 medical leaves, but I was just trying</p> <p>22 for clarification, you made a further</p> <p>23 distinction. That you made a</p> <p>24 distinction, you said that not every</p> <p>25 matter which pass through the Board</p>	<p>Page 125</p> <p>1 classrooms and students, that's the</p> <p>2 providence of the teachers, right?</p> <p>3 A That's correct.</p> <p>4 Q Okay. A teacher's request for</p> <p>5 union representation, and needed.</p> <p>6 Who will authorize that request? If</p> <p>7 a teacher asks, I want a union</p> <p>8 representation at this meeting, does</p> <p>9 the principal have authority to grant</p> <p>10 the request?</p> <p>11 ATTORNEY BINDER-HEATH:</p> <p>12 And again, I'm just</p> <p>13 going to object to the term</p> <p>14 meeting. Whether it's a</p> <p>15 meeting that may end up in</p> <p>16 disciplinary consequences or</p> <p>17 just a meeting, or a meeting</p> <p>18 with a parent. There are</p> <p>19 different kinds of meetings,</p> <p>20 but you can answer the</p> <p>21 question.</p> <p>22 BY ATTORNEY NICHOLS:</p> <p>23 Q Counsel makes a distinction.</p> <p>24 A What kind of meeting?</p> <p>25 Q Well, let's take the first</p>

<p>Page 126</p> <p>1 which Counsel, the one she made a 2 distinct. The one which could end 3 up in disciplinary consequences? 4 A My experience has been, and 5 was --- I guess you could say, I 6 learned that from my superior, which 7 is Mr. Dolcki, superintendent, it's 8 in our best interest to make sure 9 that there is a union rep there, and 10 that's what we do. So when it comes 11 to disciplinary meetings there's 12 always a union rep there. We've 13 never conducted one without one in 14 the four plus years I've been here. 15 And I only assume that that's been 16 going for a long time because that 17 came from my boss and he's been here 18 a lot longer than I have. 19 Q There was a copy of an 20 agreement that was put in the record 21 this morning and as I understand it, 22 it emanated from a parent teacher 23 conference where Ms. deLeon, Mr. 24 Desher and there was --- as I 25 understand it Ms. deLeon made a</p>	<p>Page 127</p> <p>1 Q Way before your time. Okay. 2 Now, Mr. Heller, I'd like to turn 3 your attention to some matters on or 4 about March 2002. Understandably you 5 had just come as assistant 6 superintendent in February 2002? 7 A Yes. 8 Q The District. But I do have 9 some questions, and you have --- on 10 Direct inquiry of Counsel, you have 11 now made some responses to these 12 questions --- some of the questions, 13 but I want to plow, I want to plow 14 this ground again to some extent. 15 One, as I understand it there was a 16 meeting on March 12th, 2002 in which 17 you were in attendance; right? Is 18 that correct? 19 A Yes. 20 Q And as well as Ms. deLeon and 21 someone else. Mr. Higgins, I 22 believe, was also in attendance? 23 A Yes. 24 Q Now, that particular meeting 25 was called for what purpose?</p>
<p>Page 127</p> <p>1 request to be represented by Counsel 2 --- I mean, represented by a union 3 rep rather. It was not made 4 available, a union rep not made 5 available. She grieved it and there 6 was a settlement, and out of that 7 settlement was an agreement which was 8 made a part of the record that --- 9 apparently manifests as that policy 10 that you mentioned earlier? 11 A Are talking about the 12 philosophy on the evaluations 13 instrument? 14 Q No, no, I don't think it's the 15 evaluation --- no. 16 ATTORNEY BINDER-HEATH: 17 I think you should --- 18 just for the record, he's 19 talking about something that 20 occurred on August 13th, 1997. 21 So you were not there. 22 A I wasn't present. 23 BY ATTORNEY NICHOLS: 24 Q Okay. Right. 25 A That was way before my time.</p>	<p>Page 128</p> <p>1 ATTORNEY BINDER-HEATH: 2 Objection, asked and 3 answered. 4 BY ATTORNEY NICHOLS: 5 Q Do you recall the purpose of 6 the meeting? Why that meeting was 7 called? 8 ATTORNEY BINDER-HEATH: 9 He's asking do you 10 recall, what we already 11 discussed? 12 A Yeah. 13 ATTORNEY BINDER-HEATH: 14 Why it happened. 15 A Right. Yeah, I already said 16 why it happened. 17 BY ATTORNEY NICHOLS: 18 Q Yes, if you could just refresh 19 my memory, please? Just briefly, why 20 was the meeting called on March 12th? 21 It was to discuss her evaluation? 22 Was it to discuss her evaluation? My 23 understanding was there was an 24 observation on March 7th? 25 A Yes.</p>

<p>Page 130</p> <p>1 Q Okay. I'm not sure whether 2 you --- who did the evaluation on 3 March 7th, was that Mr. Higgins? 4 A Yeah, Mr. Higgins did an 5 observation. 6 Q Okay. And so was it fair to 7 say that five days later the meeting 8 conference on March 12? 9 A Yes. 10 Q Which you attended, Mr. 11 Higgins and Ms. deLeon attended to 12 discuss that, right? 13 A And there were a few other 14 people there. 15 Q You testified that Ms. deLeon 16 was vocal, that she was upset; is 17 that correct? 18 A That's correct. 19 Q And you went on to testify 20 that the particular meeting ended 21 before it was scheduled to end; is 22 that correct? 23 A It ended abruptly. 24 Q Was that because of something 25 Mr. Higgins insisted upon or you</p>	<p>Page 132</p> <p>1 I can't take this anymore. I can't do 2 this. That sort of comment or 3 statements. 4 Q Did she direct any profanity 5 at anyone? 6 A No. I don't remember, I don't 7 recall any profanity. 8 Q Did she try to physically 9 assault anyone? Did she physically 10 assault anyone? 11 A No, no, no. But she became 12 loud, crying, emotional. She was --- 13 it was not appropriate for a 14 professional setting. 15 Q That was your opinion? That 16 was your opinion? 17 A My professional opinion. 18 Q Now, that was the 12th. Now 19 on the 18th --- on the 18th, I have a 20 letter dated the 18th and this is a 21 letter prepared by Mr. Dolecki. I 22 think this has been made a part of 23 the record. I'll show it to you. I 24 will not offer it, this is already a 25 part of the record.</p>
<p>Page 131</p> <p>1 I insisted upon? 2 A It was something, and I had 3 said this earlier, is that Mr. 4 Higgins was reviewing the observation 5 and he had made some recommendations, 6 or he had made some --- a 7 constructive criticism and it was my 8 observation that Ms. deLeon was not 9 giving Mr. Higgins his attention --- 10 her attention. It looked as if she 11 wasn't listening, and I felt that if 12 we were going to go forward with this 13 and make any improvement that I 14 needed to at least ask her if she 15 understood, which I felt was 16 completely the right thing to do. 17 Ask her if she understood what Mr. 18 Higgins, her direct supervisor was 19 implying. And at that point she 20 became emotionally charged. Crying, 21 saying some things. 22 Q Do you recall specifically 23 what she said? 24 A She said that she can't --- 25 specifically, she said that she just</p>	<p>Page 133</p> <p>1 ATTORNEY BINDER-HEATH: 2 It's 15. 3 ATTORNEY NICHOLS: 4 Oh, 15, yes. 5 BY ATTORNEY NICHOLS: 6 Q Earlier you acknowledged 7 having seen that letter before? 8 A Yes. 9 Q And you also, upon being 10 questioned by the Counsel, you 11 acknowledged you had some input in 12 the composition of that letter or the 13 making of that letter? Is that 14 correct? 15 A I said that I was --- I 16 believe that I said that I was 17 involved in the discussion regarding 18 this letter. 19 Q You were involved in the 20 discussions. With whom? Mr. 21 Dolecki? 22 A Mr. Dolecki for sure. I don't 23 remember specifically who else was 24 there. 25 Q Did you make a recommendation</p>

<p>Page 134</p> <p>1 to Mr. Dolecki? A specific 2 recommendation regarding the contents 3 of this letter? 4 A. Well, I'll be honest with you, 5 I don't know how strong my 6 recommendation was at that particular 7 time, I haven't been here for more 8 than 30 days and that includes the 9 weekends. The only thing I would 10 remember is sharing my experiences 11 pertaining to Ms. deLeon regarding 12 the incidents that I was involved in, 13 which weren't only a couple, that's it. 14 Q As you have acknowledged at 15 that juncture you knew very little 16 about Ms. deLeon, you had just come 17 aboard, correct? 18 A. Yes. 19 Q This is on March 18th, you 20 came February 2002? 21 A. February 18th. 22 Q Yes, okay. 23 A. One month. 24 Q One month. All right. Now, 25 the contents of the letter says that</p> <p>Page 135</p> <p>1 Mr. Dolecki, the author of the letter 2 says, this action --- he's referring 3 to he suspends. This letter he 4 suspends Ms. deLeon and he directs 5 her to undergo a psychiatric 6 evaluation. And he says, this action 7 is based on a medical excuse you 8 presented to the administration on 9 March 14th. Now, may I show 10 you --- 11 A I remember that letter. 12 Q --- another letter, and this 13 is the letter dated March 12th. Is 14 that a letter in which Mr. Dolecki is 15 referring? 16 A. Yeah. 17 Q That's a letter from Dr. 18 Mercatoris. 19 A Dr. Mercatoris, yes. 20 Q Right. And he says there --- 21 he says, one, he advises as to Ms. 22 deLeon's condition. He also says 23 that because of the situation, she 24 needs to take time off of work from 25 3/13/02 to 3/17/02. You were aware,</p>	<p>Page 136</p> <p>1 you've seen this letter and you were 2 aware of its contents; is that 3 correct? 4 ATTORNEY BINDER-HEATH: 5 Objection, asked and 6 answered. We went over this 7 in detail in Direct. You can 8 answer. 9 A. Yes. 10 BY ATTORNEY NICHOLS: 11 Q Now, returning to the letter 12 of March 18th, which is written by 13 Mr. Dolecki to Ms. deLeon, my 14 understanding is --- correct me if 15 I'm wrong, you physically 16 hand-carried this letter to Ms. 17 deLeon; is that correct? 18 A. That's correct. 19 Q And you met with Ms. deLeon at 20 the school, her workplace? 21 A I believe it was in the 22 conference room in the high school, 23 yes. 24 Q And who else was an attendant 25 of the meeting on that occasion?</p> <p>Page 137</p> <p>1 A. The same players that I've 2 stated in the past today. Mr. 3 Higgins --- 4 Q Mr. Higgins was present. 5 A --- Mr. Desher, Ms. deLeon 6 and a few CCEA reps. Like I said, 7 there were at least two of them at 8 our meetings. 9 Q Okay. All right. Now, let me 10 just step back, if I may, a moment. 11 Before delivery of the --- and at the 12 time of its composition or on 13 thereabout this composition with Mr. 14 Dolecki drafted it, now that you were 15 privy to the making of the draft and 16 the --- you were privy to it? 17 A. Yes. 18 Q Right. Now, my question to 19 you then is, did you or Mr. Dolecki, 20 do you know if you or Mr. Dolecki 21 consulted Dr. Mercatoris regarding 22 Ms. deLeon's condition prior to your 23 delivery of the letter? 24 A Did we consult, or did I 25 consult?</p>
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<p>Page 138</p> <p>1 Q Did you or Mr. Dolecki or 2 anyone else on the staff of the 3 School District consult with Dr. 4 Mercatoris? 5 A I don't remember. I don't 6 remember. 7 Q He says, in his letter on May 8 12th, he said, Dr. Mercatoris, to 9 whom it may concern, if there are any 10 questions regarding this, please feel 11 free to contact this office. Now, 12 I'm asking did you, did Mr. Dolecki, 13 or both, did you consult with the 14 doctor? 15 A I didn't consult with the 16 doctor. 17 Q You didn't. Do you know 18 whether Mr. Dolecki consulted? 19 A I said, I don't remember. I 20 don't know if he did or not, I don't 21 remember. 22 Q Do you recall whether in the 23 course of your discussion with him in 24 the preparing of this matter whether 25 he ever said, I think I will call Dr.</p>	<p>Page 140</p> <p>1 At the time, you mean? 2 BY ATTORNEY NICHOLS: 3 Q On or about March 18th. 4 Either before March 18th on or about 5 at the time of the drafting of the 6 letter of March 18th. 7 A Are you talking about the 8 letter that says that she's under the 9 care of Dr. Richards and Dr. 10 Mercatoris and that it's recurrent 11 severe depression? 12 Q Right, right. 13 A I'm sure that that was a topic 14 of conversation. 15 Q Between you and Mr. Dolecki? 16 A Probably it was. 17 Q All right. 18 A I said, probably. 19 Q Let's move forward, let's --- 20 not fast forward, but let's step 21 forward if we may. On this delivery, 22 you --- now on the 18th you delivered 23 the letter, which was prepared by Mr. 24 Dolecki, calling for the resignation 25 --- not the resignation rather, but</p>
<p>Page 139</p> <p>1 Mercatoris or suggest that you call 2 him or someone else on the staff call 3 him to inquire regarding the letter, 4 his letter, Dr. Mercatoris' letter on 5 March 12th? 6 A I just told you a minute ago I 7 didn't remember, why would I change 8 my mind? I don't remember. 9 Q You don't remember what? 10 A I don't remember what you just 11 asked me about the contact of Dr. 12 Mercatoris. I said, I don't --- I 13 didn't contact him and I don't 14 remember if Mr. Dolecki contacted him 15 or not. 16 Q But I asked you a very 17 different question. I asked you, did 18 you discuss with Mr. Dolecki, Dr. 19 Mercatoris' letter? That's a very 20 different question. 21 A That's not the question you 22 asked me. 23 Q Well, I'm asking that question 24 now. If you'd be so kind to respond. 25 ATTORNEY BINDER-HEATH:</p>	<p>Page 141</p> <p>1 suspension of Ms. Dolecki --- not Ms. 2 Dolecki, excuse me. Ms. deLeon. 3 Okay. And also ordering her to 4 undergo a psychiatric exam. You 5 physically delivered that letter to 6 her. Now, my question to you is did 7 you ask for Ms. deLeon's resignation 8 on that occasion? 9 ATTORNEY BINDER-HEATH: 10 Objection, asked and 11 answered. You may answer. 12 A I said earlier what I said. 13 BY ATTORNEY NICHOLS: 14 Q And what did you say earlier, 15 because it's not clear to me what you 16 said? I ask that you say it again. 17 A Okay. I guess the --- what I 18 said was, I know what I said, but the 19 purpose behind saying it was --- and 20 you wouldn't understand this because 21 you weren't there at the meeting so I 22 couldn't expect you to understand 23 what her behavior and demeanor and 24 her emotional state was like, but she 25 had stated, I can't do this anymore</p>

<p>1 and she was emotional, crying, making 2 statement like that over and over 3 again until she was eventually 4 ushered out because it was in the 5 best interest of her to be ushered 6 out of the room by the CCEA. I went 7 back and shared that with Mr. 8 Dolecki, and because we had a concern 9 for her wellbeing, particularly 10 after that letter from Dr. Mercatoris 11 was forwarded to Mr. Dolecki, and we 12 have a very big concern for learning 13 and what's in the best interest of 14 our students, I said to her, and I 15 didn't demand, I just suggested, that 16 if you're willing to turn in your 17 letter of resignation we would grant 18 you full pay for the remainder of the 19 school year. That's what I said and 20 that's it. Is that clear? Because 21 that's what I said. 22 Q I heard you, Mr. Heller. My 23 further question is this though, and 24 you express concern as to her --- 25 based upon the meeting that occurred</p>	<p>Page 142</p> <p>1 on the staff of the superintendent's 2 office didn't pick up the telephone 3 and call Dr. Mercatoris? 4 ATTORNEY BINDER-HEATH: 5 Objection, you're 6 simply being argumentative 7 now. 8 ATTORNEY NICHOLS: 9 Okay. All right. 10 We'll move forward. Okay. 11 All right. 12 BY ATTORNEY NICHOLS: 13 Q Now, you said you did --- I 14 used the term, asked for, you used 15 the term request Ms. deLeon's 16 resignation on the 18th in the 17 letter. What was Ms. deLeon's 18 response? 19 A Well, we didn't get her 20 resignation, so obviously she wasn't 21 willing to give it to us at that 22 particular time. 23 Q You're an administrator, you 24 are a manager, the assistant 25 superintendent. You have certain</p>
<p>Page 143</p> <p>1 with Ms. deLeon on the 12th. But my 2 question, further question is, if you 3 were so concerned and Mr. Dolecki was 4 so concerned, why were you not also 5 moved to call Dr. Mercatoris? 6 ATTORNEY BINDER-HEATH: 7 Objection, he indicated 8 he didn't know if Mr. Dolecki 9 did or not. 10 A Yeah, I never said nobody 11 called him, I just said I didn't 12 know. 13 BY ATTORNEY NICHOLS: 14 Q So you didn't know? 15 A I don't remember. 16 Q So I mean, you can't confirm 17 for the record that a call was made 18 to Dr. Mercatoris. Now, my query 19 here is this --- I don't mean to be 20 argumentative, but you, sir, used the 21 term concerned and I'm not saying you 22 were not concerned. I'm not 23 questioning your bona fide values in 24 that regard, but if you were really 25 concerned, why didn't you or someone</p>	<p>Page 145</p> <p>1 responsibilities, and one of which is 2 the administration of an ADA law, we 3 just talked about that. What is your 4 understanding of the ADA law as it 5 relates to employer right, a 6 prerogative, a right to ask for an 7 employee's resignation due to a 8 medical condition? 9 ATTORNEY BINDER-HEATH: 10 Objection, I have many 11 objections. First of all, 12 it's calling for a legal 13 conclusion. Second of all, it 14 assumes that she's disabled 15 under the ADA, which we 16 disagree with. And third, 17 you're not being specific as 18 to his particular situation. 19 BY ATTORNEY NICHOLS: 20 Q Let me ask you this, Mr. 21 Heller, if I may, what is the School 22 District's policy then with respect 23 to asking when an employee may be 24 required to undergo a psychiatric 25 exam? What is the School District's</p>

1 policy?
 2 ATTORNEY BINDER-HEATH:
 3 I'm going to object
 4 because there is the Americans
 5 With Disabilities Act and also
 6 the Family and Medical Leave
 7 Act, both which may involve
 8 them.
 9 ATTORNEY NICHOLS:
 10 Right, so ---
 11 ATTORNEY BINDER-HEATH:
 12 One is serious health
 13 condition, one is a
 14 disability. They are very
 15 different things.
 16 BY ATTORNEY NICHOLS:
 17 QI'm just simply asking you
 18 understanding. You are charged as
 19 the administrator to administer those
 20 laws; are you not? That's a fair
 21 question. Are you an administrator,
 22 Mr. Dolecki is an administrator. Are
 23 you not charged with administering
 24 those federal mandates? Are you not?
 25 ATTORNEY BINDER-HEATH:

1 Okay.
 2 BY ATTORNEY NICHOLS:
 3 QI'm just asking you a fair
 4 question. What was your
 5 understanding of the ADA law?
 6 APut it this way, you took a
 7 long way to get to it. You could've
 8 taken a shortcut.
 9 QAll right. Let's take a
 10 shortcut. All right? Let's take a
 11 shortcut.
 12 AI answered.
 13 QNo, you didn't, answer your
 14 understanding. I asked your
 15 understanding of the ADA law.
 16 ANo, you didn't. You asked me
 17 ---
 18 QOkay. All right. Now, all
 19 right.
 20 AResponsible. I did answer
 21 that.
 22 QYou answered that. You
 23 answered that very directly, I
 24 appreciate that.
 25 AThank you.

1 Is that your question?
 2 ATTORNEY NICHOLS:
 3 Well, that's one
 4 question.
 5 BY ATTORNEY NICHOLS:
 6 QMr. Heller, as a manager,
 7 assistant superintendent, you're
 8 charged with administering those
 9 mandates aren't you? One of which is
 10 ADA law; correct?
 11 AAre you asking if I'm in
 12 charge?
 13 QAre you charged? Do you have
 14 a responsibility for the
 15 administration or implementation of
 16 that law?
 17 AYes.
 18 QOkay. All right. So it's a
 19 fair question. I'm not throwing a
 20 curve ball at you am I? Am I
 21 throwing a curve ball at you?
 22 ATTORNEY BINDER-HEATH:
 23 Mr. Nichols, can you
 24 please keep your voice down.
 25 ATTORNEY NICHOLS:

1 QNow, my next question. All
 2 right. Next question here. I asked
 3 what was your understanding of the
 4 ADA law as it --- to the extent that
 5 it places responsibilities on an
 6 employer who seeks to require the
 7 employee to undergo an independent
 8 medical examination or a psychiatric
 9 exam? That's my next question.
 10 ATTORNEY BINDER-HEATH:
 11 I'll object to form.
 12 You may answer if you
 13 understand the question.
 14 AI don't understand the
 15 question, I guess.
 16 ATTORNEY BINDER-HEATH:
 17 Are you asking him,
 18 under the law are they
 19 permitted to seek an
 20 independent medical exam.
 21 BY ATTORNEY NICHOLS:
 22 QAll right. Let's just use
 23 that question that your Counsel
 24 framed. Let's go there.
 25 ATTORNEY BINDER-HEATH:

<p>Page 150</p> <p>1 Do you want me to 2 repeat it? 3 A Yes, please. 4 ATTORNEY BINDER-HEATH: 5 Under the law, is an 6 employer entitled to require 7 an independent medical 8 examination under the ADA, his 9 right? 10 A I believe that the employer 11 has rights. 12 BY ATTORNEY NICHOLS: 13 Q But under what circumstance? 14 What must be shown? What I'm asking 15 you, when an employer, you as an 16 employer, Mr. Dolecki's an employer, 17 and you say, you tell that employee, 18 I want you to undergo a psychiatric 19 exam and the employee says no. An 20 example. I'm not going to them. 21 What must you show in terms under 22 your policy, under the law, as your 23 Counsel has phrased it, to require 24 that employee to undergo a 25 psychiatric exam.</p>	<p>Page 152</p> <p>1 Q I'm speaking of it in a 2 cooperative sense. The entire 3 superintendent's office. Inclusive. 4 A Did we --- okay. So you're 5 talking, in general? 6 Q Right. A corporate sense. 7 A I would say that there was 8 some consultation with a solicitor at 9 that time. 10 Q And I know, at the risk ---, 11 A But not by me specifically. 12 You understand that I'd only been 13 here for 30 days. 14 Q I understand. I understand. 15 All right. Now, Mr. Heller, okay, we 16 covered that. Mr. Heller, I saw --- 17 I think it's also in the record, so 18 I'm not going to offer that, is that 19 Ms. deLeon was evaluated, and on the 20 evaluation was May 18th --- March 21 18th, correction. March 18th. And 22 it was an unsatisfactory evaluation. 23 Do you recall having seen that also? 24 A Yes. 25 Q And I also recall on the very</p>
<p>Page 151</p> <p>1 ATTORNEY BINDER-HEATH: 2 Isn't that when you 3 call your solicitor? 4 A I was just going to say, we 5 operate under the --- under the 6 assumption of advice. I don't know 7 the answer to that question. 8 BY ATTORNEY NICHOLS: 9 Q Well, maybe I'll ask you this, 10 did you consult with your solicitor 11 in this case? 12 ATTORNEY BINDER-HEATH: 13 When you are saying 14 you, is that the universal you 15 incorporating Mr. Dolecki, or 16 do you mean, you personally? 17 ATTORNEY NICHOLS: 18 What? I'm sorry. 19 ATTORNEY BINDER-HEATH: 20 When you say you, do 21 you mean the District, or do 22 you mean Mr. Heller 23 personally? Did you consult 24 with a solicitor? 25 BY ATTORNEY NICHOLS:</p>	<p>Page 153</p> <p>1 bottom of that evaluation was a 2 notation, a handwritten notation 3 saying that I believe, it was not --- 4 that it was not completed due to Ms. 5 deLeon's being on leave. Okay. Of 6 course, understood she's having been 7 suspended by Mr. Dolecki on the 18th; 8 right? 9 A Yes. 10 Q Right 11 A Yeah. 12 Q And therefore there is as I 13 understand it, what I saw on this 14 document is that Ms. deLeon was not 15 given a copy or was not provided a 16 copy of that negative evaluation 17 until May 28th? May 28th. 18 A Uh-huh (yes). 19 Q And my question is this, which 20 is the correct --- when was she --- 21 which is the correct date? When was 22 she officially issued a negative 23 evaluation? Was it the 18th which 24 appears on the front, or was it the 25 28th, May 28th after she had been</p>

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<p>1 instructed to return to --- allowed 2 to return to work by the doctor. The 3 doctor said she was well enough to 4 return to work and she was given that 5 and the doctor made the determination 6 on May 3rd, she returned to work on 7 or about --- let me see. Well, 8 anyway, it's in the record, it's in 9 May, I think May 20-something, and 10 then May 28th she was given the 11 signed copy. Which is the correct 12 copy of that --- when was that 13 evaluation officially given to her? 14 It's confusing to me. 15 A First of all, she was rated 16 unsatisfactory based on the period of 17 time from when school started through 18 March 18th, 2003, I believe, and 19 physically because she was not in 20 attendance at school she was 21 physically provided that document on 22 the 28th of May is the reason. 23 Q That's the reason why it was 24 given to her belatedly like that? 25 A Yeah, hadn't been in school to</p>	<p>1 going to tell you that she was under 2 the care of the doctor, we had a 3 letter stating that she was under the 4 care of her physician. What good 5 would it do to provide her a document 6 at that point? You want to wait 7 until she's cleared. So I think we 8 were completely showing our genuine 9 concern not to bring her back 10 prematurely without a document from 11 her doctor. 12 Q Don't you think there's 13 another interpretation there that the 14 reason people could conclude that the 15 reason you waited and gave it to her 16 on the 28th, indeed, that's the date 17 that it was signed off on, is because 18 really it was retaliation because the 19 doctor had found May 3rd that she was 20 able and willing to return to work? 21 ATTORNEY BINDER-HEATH: 22 Are you asking if 23 that's what happened or if 24 that's what someone could 25 potentially interpret.</p>
Page 155	Page 157
<p>1 receive the evaluation. 2 Q I see. Why was it given to 3 her belatedly in that sense if she 4 was suspended with pay, you could've 5 always called her earlier and given 6 it to her, right? She was suspended 7 without pay, she was already --- I 8 mean, she was able to come and get 9 it. 10 A Why would we? 11 Q Hub? 12 A Why would we do it? 13 Q That's what I'm saying. It's 14 dated 18th, I don't know why it was 15 then 82 days later you gave it to 16 her? 17 A She was marked --- that was an 18 evaluation over that period of time 19 to the 18th of March, and she didn't 20 come back to work until May 23rd when 21 we gave her an opportunity to get her 22 feet planted and get back in the 23 system before we met with her again 24 and gave her the document on the 25 28th. I think, again, you know, I'm</p>	<p>1 ATTORNEY NICHOLS: 2 If someone has a that's 3 a reasonable interpretation. 4 ATTORNEY BINDER-HEATH: 5 Reasonable and 6 potential are not the same. 7 BY ATTORNEY NICHOLS: 8 Q Moving forward, okay. Now, 9 Mr. Heller, my reading of the record 10 and particularly commencing, let's 11 see, in the fall, September and 12 moving forward 2002 up to the time 13 --- the charges the Board recommended 14 by the administration that Ms. deLeon 15 be terminated and that was April 16 2003. You evaluated her at least 17 twice. 18 A Observed. 19 Q Observed, you observed, right. 20 And as I read the record, she was 21 observed, I guess, inclusive twice by 22 you, at least five other observations 23 were made within eight months, eight 24 months? 25 A Correct.</p>

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<p>1 Q Now, I also noticed --- my 2 observation revealed is that of the 3 two observations you made, they were 4 satisfactory really, the scoring. I 5 mean, you indicated on the second one 6 there was need for improvement and we 7 have covered that this morning with 8 your Counsel, but neither 9 observation as by you were 10 unsatisfactory, is that correct? 11 A No, that's not correct. 12 Q Which one was unsatisfactory? 13 A The second one. 14 Q The second one was 15 unsatisfactory? 16 A There was reason for a lot of 17 improvement on the second one. The 18 first one was fine and I said that 19 earlier. And I gave her words of 20 encouragement and complimented her. 21 She didn't accept it but I gave it to 22 her. 23 Q Right. Now, now, now I 24 listened carefully to your testimony 25 this morning a few minutes ago about</p>	<p>1 troubled by that; right. 2 ATTORNEY BINDER-HEATH: 3 Objection. 4 A That's not true. 5 BY ATTORNEY NICHOLS: 6 Q That's not true? Your 7 daughter was a student of Ms. deLeon. 8 Of course you knew. Did she ever 9 complain about Ms. deLeon? 10 A No, my daughter got all As in 11 her class, why would she complain? 12 Q Well, I mean, she was a 13 student. Other students apparently 14 were more judgmental as you have 15 testified. 16 A Well, one thing, one thing you 17 need to understand, Caleb, if you 18 ever bring my daughter's name up 19 again, because I don't really 20 appreciate it. 21 Q Well, I didn't mean in that 22 sense. I didn't mean anything 23 derogatory. I was simply she --- Ms. 24 deLeon tells me that she was a 25 student of hers.</p>
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<p>1 Ms. deLeon in the workplace, and much 2 about what you had to say about her, 3 your interaction with her really 4 boiled down to difference of 5 personality. Is that a fair 6 statement? 7 A Between who? 8 Q As you perceived her, it was a 9 matter of personality, right? I 10 mean, you never quibbled with her 11 ability as a teacher, her teaching 12 skills? I didn't hear you quibble 13 with that, question that. It was 14 always her attitude, you say, right? 15 A No, no, I didn't say that. I 16 didn't say it was always her 17 attitude. 18 Q But that was the predominant 19 concern, right? 20 A No, you can't pin me down on 21 just one thing. I said there were 22 many more. 23 Q I see, I see. But it was not 24 her teaching ability and skills were 25 never a concern? You were never</p>	<p>1 A That's correct. 2 Q Right. 3 A But, I don't use my daughter 4 for my advantages and I don't want 5 you to think so. And I'd appreciate 6 if you don't bring it up again. 7 Q Fine, fine. I was just simply 8 saying that --- it's just simply what 9 my client --- 10 A Just drop it and we'll be 11 happy with that. 12 Q Okay. All right. Now, the 13 Action Plan --- 14 ATTORNEY BINDER-HEATH: 15 Are you talking 2002- 16 2003? 17 BY ATTORNEY NICHOLS: 18 Q Let's start with 2001, I 19 believe that's when it was 20 implemented. The first action plan. 21 And that was devised by Mr. Destiner; 22 is that correct, sir? 23 A There was one that was devised 24 prior to me coming to Crawford 25 Central. There may have been more,</p>

<p>Page 162</p> <p>1 b) I was aware of the one that I 2 think Mr. Destiner and Mr. Higgins put 3 together in 2001-2002. 4 ATTORNEY BINDER-HEATH: 5 It's Exhibit Three. 6 ATTORNEY NICHOLS: 7 Exhibit Three. Okay. 8 Action plan. 9 BY ATTORNEY NICHOLS: 10 Q Now, as best as you know, Mr. 11 Helter, who were typical candidates 12 to be put on an action plan? What 13 would be a typical profile of a 14 teacher who would be put on an action 15 plan? 16 A My experience has been, and 17 I'm talking experiences prior to 18 being here because what was --- this 19 was shared with me by Mr. Dolecki who 20 was in my position prior to me, is 21 that anybody that was on an action 22 --- anybody that received an 23 unsatisfactory rating was on an 24 action plan automatic. And then 25 according to the --- at that time if</p>	<p>Page 164</p> <p>1 Plan. Did you have an input in the 2 revision of it? 3 A As I explained to Ms. Heath, I 4 had some input. As you can see that 5 --- and we followed it because my 6 position, not my name, is within the 7 Action Plan. Number two, 8 professional competency that I will 9 observe Ms. deLeon along with the 10 building principals. So I was part 11 --- I had some input that I didn't 12 have --- as I said earlier, I didn't 13 have a lot of input. I would credit 14 Mr. Higgins with the majority of the 15 Action Plan. I read through it. I 16 thought it was put together very 17 well, and that's it. 18 Q I recall you said there were 19 other teachers that were placed in 20 that type of Action Plan? There were 21 other teachers you knew of? 22 A Yeah. 23 Q I'm referring now to Crawford 24 Central. 25 A Yes, there has been other</p>
<p>Page 163</p> <p>1 You had --- there was 11 different 2 sections in the appendix A, and it 3 was possible and this has happened 4 during my time, that if you received 5 one, two, three blocks that were 6 rated unsatisfactory you could also 7 be put on an action plan if there was 8 --- if, administratively there was 9 --- if the administrators felt there 10 was need to put that person on an 11 action plan. And I have been part of 12 that process where we've done that. 13 The person didn't get an overall 14 satisfactory rating. 15 Q Did you participate in 16 devising this particular action plan 17 in which Ms. deLeon was placed on? 18 A Not this one. 19 Q You had no participation 20 whatsoever in that? 21 A I wasn't employed at the 22 District in 2001. 23 Q All right. Let's confirm 24 2002, it was revised, as I 25 understand, in 2002, that Action</p>	<p>Page 165</p> <p>1 teachers on an Action Plan. 2 Q I'm not asking for names, I'm 3 just simply asking for your best 4 estimate of numbers who were placed 5 on this type of action plan. 6 ATTORNEY BINDER-HEATH: 7 Since he's been there, 8 or before that he just knows 9 off? 10 BY ATTORNEY NICHOLS: 11 Q Either before, or either --- 12 essentially being there or that you 13 have made it your business to find 14 out before --- the period before you 15 got there. 16 A I can't speak before. 17 Q Or that has come to your 18 knowledge since. 19 A But there has been action 20 plans that implemented in the School 21 District. Let's say, we'll start at 22 2002-2003 school year and beyond, and 23 there has been teachers with action 24 plans and I have been involved in all 25 since then. Yes.</p>

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<p>1 Q Now, I don't think --- the</p> <p>2 question I asked you I don't think</p> <p>3 you responded to. I asked you the</p> <p>4 typically profile of a teacher that</p> <p>5 would be placed on an action plan.</p> <p>6 A I responded to that.</p> <p>7 Q You did?</p> <p>8 A Yeah.</p> <p>9 Q Oh, you said on who had</p> <p>10 failing and one of those scorings,</p> <p>11 one of the little areas, a component</p> <p>12 of the scoring.</p> <p>13 A Right.</p> <p>14 Q And that person would be ---</p> <p>15 does that mean if a teacher had a</p> <p>16 failing in either one of those</p> <p>17 components that that would</p> <p>18 necessarily mean the teacher would be</p> <p>19 placed in an Action Plan or is it</p> <p>20 discretionary on the part of the</p> <p>21 principal or whoever?</p> <p>22 A I said earlier if it's not</p> <p>23 unsatisfactory, it's discretionary,</p> <p>24 but there has been, since I've been</p> <p>25 here, I can tell you, there has been</p>	<p>1 Describe the training program?</p> <p>2 A Training?</p> <p>3 Q The training program on the</p> <p>4 FERPA, I mean to which the teaching</p> <p>5 staff, including Ms. deLeon would</p> <p>6 have been exposed to?</p> <p>7 A It's something that they go</p> <p>8 over in faculty meetings.</p> <p>9 Receive ---</p> <p>10 Q It's not a formal training</p> <p>11 program?</p> <p>12 A No.</p> <p>13 Q It's informal?</p> <p>14 A Yes.</p> <p>15 Q Conducted at faculty meetings?</p> <p>16 A Yes.</p> <p>17 Q Is it done on a periodic basis</p> <p>18 or is there some fixed schedule that</p> <p>19 it must get done?</p> <p>20 A Yearly.</p> <p>21 Q Who conducts it?</p> <p>22 A Typically the building</p> <p>23 principal.</p> <p>24 Q Will conduct the training?</p> <p>25 A Yes.</p>
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<p>1 many people that have been on an</p> <p>2 Action Plan under the discretionary</p> <p>3 model as there has been for an</p> <p>4 unsatisfactory model.</p> <p>5 Q Is it fair to say the typical</p> <p>6 profile of the teachers is in the</p> <p>7 younger junior, less senior status?</p> <p>8 A Nope. I wouldn't say it's</p> <p>9 like that.</p> <p>10 Q That has not been your</p> <p>11 experience?</p> <p>12 A Nope. That hasn't been my</p> <p>13 experience.</p> <p>14 Q Your Counsel referred to the</p> <p>15 FERPA acronym for a Federal law</p> <p>16 dealing with the privacy ---</p> <p>17 A Yes.</p> <p>18 Q --- the privacy of handling</p> <p>19 the student record. And you</p> <p>20 testified that you did provide ---</p> <p>21 the administration does provide</p> <p>22 training, or did provide training to</p> <p>23 the teaching staff, is that correct?</p> <p>24 A Yes.</p> <p>25 Q How is that accomplished?</p>	<p>1 Q Does the administration</p> <p>2 oversee the implementation of this</p> <p>3 training on the part of the FERPA</p> <p>4 training?</p> <p>5 ATTORNEY BINDER-HEATH:</p> <p>6 You mean the</p> <p>7 superintendents, because the</p> <p>8 principal would be,</p> <p>9 technically administration?</p> <p>10 ATTORNEY NICHOLS:</p> <p>11 Right. Right.</p> <p>12 BY ATTORNEY NICHOLS:</p> <p>13 Q I'm now saying, does the</p> <p>14 superintendent's office have any</p> <p>15 oversight and oversee the</p> <p>16 implementation of this type of</p> <p>17 training involving FERPA?</p> <p>18 A Anything that takes place in</p> <p>19 the School District is overseen by</p> <p>20 the superintendent.</p> <p>21 Q Is the training, is it</p> <p>22 verbally done or is it conducted or</p> <p>23 does it involve a written component?</p> <p>24 A It's mostly verbal.</p> <p>25 Q Mostly verbal. Does it</p>

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<p>1 involve any written component?</p> <p>2 A It has to do with --- no.</p> <p>3 Q No written component?</p> <p>4 A No, not that I'm aware of.</p> <p>5 Q If I requested the document of</p> <p>6 the administration of this training</p> <p>7 by the School District in the past</p> <p>8 five years you could document that?</p> <p>9 Would there be any way of documenting</p> <p>10 such training?</p> <p>11 ATTORNEY BINDER-HEATH:</p> <p>12 You mean other than</p> <p>13 just the policy that exists?</p> <p>14 ATTORNEY NICHOLS:</p> <p>15 That this training was</p> <p>16 conducted as he says at the</p> <p>17 faculty meetings.</p> <p>18 ATTORNEY BINDER-HEATH:</p> <p>19 Right.</p> <p>20 BY ATTORNEY BINDER-HEATH:</p> <p>21 Q That's all I'm asking you.</p> <p>22 Could that be documented, Mr. Heller?</p> <p>23 A I don't know for sure. I</p> <p>24 can't say.</p> <p>25 Q But why are you hesitant. I</p>	<p>1 representative of PHRC, Pittsburgh</p> <p>2 office.</p> <p>3 A Right.</p> <p>4 Q My question to you is, was Ms.</p> <p>5 deLeon sanctioned for that? That she</p> <p>6 was sanctioned for that activity, I</p> <p>7 mean, for that, or what allegedly had</p> <p>8 been done or what is being said in</p> <p>9 terms of releasing documents. Is</p> <p>10 that correct, she was charged for</p> <p>11 having committed an act of</p> <p>12 immorality? That's what I</p> <p>13 understand.</p> <p>14 A Are you talking about that</p> <p>15 memo that I didn't get that she sent</p> <p>16 to me?</p> <p>17 ATTORNEY BINDER-HEATH:</p> <p>18 Look at Exhibit 17,</p> <p>19 statement of charges letter,</p> <p>20 which is the last one.</p> <p>21 A Yeah, she was.</p> <p>22 BY ATTORNEY NICHOLS:</p> <p>23 Q Charged with immorality.</p> <p>24 Right?</p> <p>25 A I wouldn't say immorality</p>
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<p>1 mean, it was done. Do you have any</p> <p>2 way of maintaining that to ensure</p> <p>3 that it was done?</p> <p>4 A I told you it was done</p> <p>5 verbally, so how can I have any</p> <p>6 documentation for it?</p> <p>7 Q Yes, but what I'm saying is</p> <p>8 for your own record-keeping purposes</p> <p>9 don't you commit something to writing</p> <p>10 for your own record-keeping purposes?</p> <p>11 A What do you mean like a</p> <p>12 tickler file or something?</p> <p>13 Q I don't know. I was just</p> <p>14 wondering. It's a federal law and</p> <p>15 supposing there is some kind of</p> <p>16 audit, you know, by federal agencies.</p> <p>17 You know, that's why I was wondering.</p> <p>18 Do you know what I mean?</p> <p>19 A I can't answer that question.</p> <p>20 Q Now, your Counsel also went</p> <p>21 into another matter dealing with Mr.</p> <p>22 Flippin and that was disclosure of</p> <p>23 documents. It said that there was</p> <p>24 certain student documents disclosed</p> <p>25 to the --- Mr. Flippin who was a</p>	<p>1 would I?</p> <p>2 Q Well, at any rate have you had</p> <p>3 opportunity to read the arbitration</p> <p>4 opinion rendered my Mr. Amis?</p> <p>5 A Yeah. Yes, a long time ago I</p> <p>6 did.</p> <p>7 Q And do you recall that Mr.</p> <p>8 Amis said that particular charge</p> <p>9 could not stand? He said the school</p> <p>10 district did not prove its case on</p> <p>11 that judgment, that she had committed</p> <p>12 immorality by disclosing documents to</p> <p>13 Mr. Flippin.</p> <p>14 ATTORNEY BINDER-HEATH:</p> <p>15 And again, let me lodge</p> <p>16 my objection. We went through</p> <p>17 this already once today. The</p> <p>18 decision speaks for itself,</p> <p>19 and it's not that the</p> <p>20 arbitrator said it didn't</p> <p>21 happen or that what she did</p> <p>22 was okay. He just simply said</p> <p>23 that it was not immorality</p> <p>24 under the code.</p> <p>25 ATTORNEY NICHOLS:</p>

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<p>1 But he al so went on to 2 say that the was no 3 indication if deceit or 4 dishonesty on the part of Ms. 5 deLeon. That's what he said. 6 ATTORNEY NICHOLS: 7 I just want to say, and 8 I'm not going to belabor this 9 point. 10 ATTORNEY BINDER-HEATH: 11 Didn't we already do 12 this once? 13 ATTORNEY NICHOLS: 14 We already did but it 15 was brought up again today, 16 and therefore, I feel the 17 obligation to set the record 18 straight here, because I don't 19 want my --- 20 ATTORNEY BINDER-HEATH: 21 Please don't use set 22 the record straight, the 23 record speaks for itself. 24 ATTORNEY NICHOLS: 25 But I don't want my</p>	<p>1 to me, a discontinuity in your 2 evaluations of Ms. deLeon in the 3 fall, I believe I just talked about 4 it, fall of 2002, and then in your 5 subsequent recommendation that she be 6 terminated. You did participate in 7 the recommending that she be 8 terminated, is that correct? 9 A: Yes. 10 Q: Is that correct? 11 A: That's correct. 12 Q: The recommendation and charges 13 that were leveled against her by the 14 School District in April 2003. You 15 did participate in that, right? You 16 recommended that she be --- right? 17 A: Yes. 18 Q: Is that correct? 19 A: That's correct. 20 Q: Uh-huh (yes). And who else 21 made recommendations that went into 22 the framing of those charges that Ms. 23 deLeon be terminated? Can you say 24 for the record? 25 A: I think there were a lot ---</p>
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<p>1 client to go from here today 2 with a cloud over her head 3 saying that she is committing 4 immorality on that charge. 5 ATTORNEY BINDER-HEATH: 6 I'm not saying that. 7 ATTORNEY NICHOLS: 8 That's what I'm saying. 9 ATTORNEY BINDER-HEATH: 10 The record speaks for 11 itself. 12 ATTORNEY NICHOLS: 13 The record speaks for 14 itself. Okay. I don't want 15 that to go unsaid, 16 unchallenged. 17 ATTORNEY BINDER-HEATH: 18 Okay. 19 ATTORNEY NICHOLS: 20 All right. That's what 21 he said, no dishonesty, no 22 deceit on her part. 23 BY ATTORNEY NICHOLS: 24 Q: Now, Exhibit 16, what has been 25 marked Exhibit 16. There seems to be</p>	<p>1 we function as a team input from all 2 the administrators that were 3 involved. 4 Q: Right, can you say for the 5 record who else participated in that? 6 A: First and foremost, Mr. 7 Dolecki as the superintendent. 8 Q: Can you say Mr. Dolecki, he 9 made a recommendation that she be 10 terminated, right? 11 A: Ultimately it becomes his 12 recommendation. 13 Q: And who else? 14 A: But he takes input from people 15 in --- 16 Q: Right. And on this occasion 17 from who else did he take 18 recommendations other than you? 19 A: Mr. Deshner. 20 Q: Mr. Deshner has already 21 testified what he said --- be 22 recommended. I know that, it's on 23 the record. Who else? 24 A: Mr. Higgins. 25 Q: And Mr. Higgins. What did Mr.</p>

<p>Page 178</p> <p>1 Higgins recommend? 2 A I'd assume he'd recommended 3 the same thing. 4 Q Anybody else? 5 A Not to my knowledge. The 6 advice of our labor attorney. We had 7 acted under the advice of our labor 8 attorney. 9 Q Your labor attorney? 10 A Our labor attorney. 11 Q Now, your Counsel also asked 12 you about the harassment policy. Did 13 the District have a harassment 14 policy? Okay. You say you do have a 15 policy that addressed harassment. 16 Okay. Is that correct, harassment? 17 Discrimination, sexual harassment; 18 right? 19 A We do. 20 Q Now, my question is, is that 21 disseminated to the staff, the 22 teaching staff, the administrative, 23 the support staff? How is that 24 disseminated or made known? 25 A We have a district policy book</p>	<p>Page 180</p> <p>1 binding on the district and the 2 district staff and personnel. 3 A We don't have an education 4 program, per se, that makes people 5 learn these policies, no. No. 6 Q Now, Ms. deLeon's case has 7 been with us for a long time. Any 8 reasonable person would say, this 9 reaches back to 1994 over a decade 10 she's been filing these complaints. 11 We have four arbitrations, three of 12 which she has prevailed. There have 13 been all these other things dealing 14 with Ms. deLeon, between the District 15 and Ms. deLeon, and they have 16 involved Civil Rights Laws in the 17 workplace. Now, the question is 18 this, what has the District done to 19 address these problems in terms of 20 correcting it or directing? Have you 21 put into place any new policies to 22 address harassment and discrimination 23 or sexual harassment? 24 ATTORNEY BINDER-HEATH: 25 I'm going to object.</p>
<p>Page 179</p> <p>1 and that policy is in every building. 2 I believe people are made aware 3 through different reasons. 4 Different, I guess formats. I know 5 part of --- we go over certain 6 policies that we need our staff to 7 know when they are new in our school 8 district. There is different 9 vehicles, I guess, that get the word 10 around. The union is very proactive. 11 Q Do you also conduct education 12 courses with respect to this type of 13 policy? 14 A No. 15 Q No formal education program? 16 A No. 17 Q No program like in the other 18 case you said you had an education 19 with respect to the other policies I 20 was asking you about. Oh, the FERPA, 21 like FERPA. You don't have a similar 22 kind of education program, to educate 23 the staff as to, you know, about the 24 act of harassment laws, the act of 25 discrimination policies that are</p>	<p>Page 181</p> <p>1 BY ATTORNEY NICHOLS: 2 Q Can you speak to that? 3 ATTORNEY BINDER-HEATH: 4 I'm going to object 5 you're assuming facts not in 6 evidence. You are assuming 7 that there is a violation of 8 the policy. 9 ATTORNEY NICHOLS: 10 I only know what the 11 arbitrator said. The three 12 arbitrators say. 13 ATTORNEY BINDER-HEATH: 14 Again objection, I 15 don't care what the arbitrator 16 said. This is a federal 17 lawsuit. This involves a 18 totally separate animal. And 19 what you are doing by that 20 virtue of your question is 21 assuming facts not in 22 evidence. That she was 23 harassed, that she was 24 discriminated against in some 25 fashion, which no arbitrator,</p>